

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

THE UNITED STATES OF AMERICA,

Plaintiff,

v.

JOEL IVERSON GILBERT,  
STEVEN GEORGE MCKINNEY, and  
DAVID LYNN ROBERSON,

Defendants.

CASE NO. 2:17-cr-00419-AKK

Abdul K. Kallon  
United States District Judge

July 5, 2018  
Birmingham, Alabama

**JURY TRIAL - VOL. 8 of 19**

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62	2/16/15 email from Phillips to Gilbert regarding Rep. Robinson and Brown meeting	2174	2174
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## GOVERNMENT'S EXHIBITS

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148	6/27/14 email from McKinney to Glenn and others with attached 6/11/14 letter from LeFleur to Toney	2118	2119
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161	2/19/15 email from Phillips to Gilbert and Roberson regarding Stakeholder Strategy PowerPoint	2178	2179
163	8/25/14 letter from Bentley to LeFleur concerned about EPA activities	2132	2133
226	11/30/16 Press Release from Rep. Robinson announcing retirement	1970	

**DEFENDANT'S EXHIBITS**

<b>NO.</b>	<b>DESCRIPTION</b>	<b>REFERENCED</b>	<b>ADMITTED</b>
12	Video -- Feb. 2015 Oliver Robinson appearance before the AL Environmental Management Commission	1913	1915
30	2010 tax return (Robinson & Robinson Communications business)	1979	1983
31	2011 tax return (Robinson & Robinson Communications business)	1979	1983
32	2012 tax return (Robinson & Robinson Communications business)	1979	1983
33	2013 tax return (Robinson & Robinson Communications business)	1979	1983
34	2014 tax return (Robinson & Robinson Communications business)	1979	1983
35	2015 tax return (Robinson & Robinson Communications business)	1979	1983
36	2010 IRS Form 990 (Oliver Robinson Foundation)	1980	
37	2011 IRS Form 990 (Oliver Robinson Foundation)	1980	
38	2012 IRS Form 990 (Oliver Robinson Foundation)	1980	
39	2013 IRS Form 990 (Oliver Robinson Foundation)	1980	
40	2014 IRS Form 990 (Oliver Robinson Foundation)	1980	
41	2015 IRS Form 990 (Oliver Robinson Foundation)	1910	
42	2010 tax return (Robinson personal)	1981	1983
43	2011 tax return (Robinson personal)	1981	1983
44	2012 tax return (Robinson personal)	1981	1983
45	2013 tax return (Robinson personal)	1981	1983
46	2014 tax return (Robinson personal)	1981	1983
47	2015 tax return (Robinson personal)	1981	1983
48	Robinson plea agreement	2053	

**DEFENDANT'S EXHIBITS**

NO.	DESCRIPTION	REFERENCED	ADMITTED
655	Compilation of community comments	1936	1940
658	Parcel ownership research list Tarrant	1953	1955
660	Get Smart Church Visitation schedule	1949	1949
661	Flyer for Lily Baptist Church informational meeting 3.8.16	1951	1951
667	Get Smart Tarrant slide deck	2038	
668	Letter to parents from Amanda Robinson regarding 2016 Coat Drive	1958	1959
713	Get Smart sampling/testing questionnaires	1945	1945
714	Get Smart general attitudes questionnaires	1941	1941
930A	Text messages	1963	
1161	1.10.14 email Glenn to David Moore re: SEC action items	2229	2229
3469	2011, 2012, and 2013 Alabama Individual Tax Returns for Oliver and Sakina Robinson	1982	1983



1 THE COURT: Good morning. Be seated. Hopefully all  
2 the jurors are here.

3 Karen, everyone here?

4 THE COURTROOM DEPUTY: Yes, sir.

5 THE COURT: The parties ready?

6 MR. SHARMAN: Yes, sir.

7 MR. MARTIN: Yes, sir.

8 (The following proceedings were had in open court in the  
9 presence and hearing of the jury.)

10 THE COURT: Be seated, everyone.

11 Members of the jury, good morning. Thank you all for  
12 being here bright and early this morning. We will now  
13 continue with the cross-examination of Mr. Robinson.

14 Mr. Sharman, you may begin.

15 MR. SHARMAN: Thank you, Your Honor.

16 OLIVER L. ROBINSON, JR.,  
17 previously sworn, was examined and testified further as  
18 follows:

19 CROSS-EXAMINATION BY MR. SHARMAN (resumed):

20 Q. Good morning, Mr. Robinson.

21 A. Good morning.

22 Q. Yesterday, I asked you a few questions about your plea  
23 agreement. Do you remember that discussion we had?

24 A. Yes, sir.

25 Q. All right. And one thing I didn't ask you about was

1 your sentencing. You have pled guilty to the offenses in  
2 the plea agreement, right?

3 A. Yes, sir.

4 Q. You have not yet been sentenced?

5 A. No, sir.

6 Q. And your sentencing date has been bumped a couple of  
7 times, right?

8 A. Yes, it has.

9 Q. And it's now set for August 23; does that sound right?

10 A. Yes, it is.

11 Q. About 1:30 p.m.?

12 A. Yes, sir.

13 Q. And in front of Judge Kallon here, right?

14 A. Yes, sir.

15 Q. And it's gotten bumped so that Mr. Martin here can  
16 assess how you perform on the stand. That's one reason it  
17 got bumped until after this trial is over, right?

18 A. I'll agree with you on that.

19 Q. I beg your pardon?

20 A. I'll agree with you on that, if that's the case.

21 Q. And he needs to do that so he can make a recommendation  
22 about what he thinks your sentence ought to be; is that  
23 fair?

24 A. That's fair.

25 Q. We also spoke a little bit yesterday about the tax

1 filings of the Oliver Robinson Foundation, the Form 990s.

2 Do you remember that discussion we had?

3 A. Yes, sir.

4 Q. Okay.

5 (Defendant's Exhibit 41 was referenced.)

6 MR. SHARMAN: Just to remind us, Sam, could you put  
7 up, please, Defendant's Exhibit 41?

8 Q. All right. So this was an example of one of the ones we  
9 talked about today, the 2015 Form 990, right?

10 A. Yes, sir.

11 Q. This is the form that the foundation provided to the  
12 Internal Revenue Service as sort of a tax return even  
13 though, as a charitable foundation, the foundation did not  
14 actually pay taxes, right?

15 A. Yes, sir.

16 Q. And we established through that that it indicated that  
17 you as president were not getting any compensation from the  
18 foundation, right?

19 A. Yes, sir. Yes, sir.

20 Q. And so those Form 990s were inaccurate, right?

21 A. Yes, sir.

22 Q. And to prepare those forms, you gave information, I  
23 believe you told us, to your accountants, right?

24 A. Yes, sir.

25 Q. And that was the Borland Benefield firm, right?

1 A. Yes.

2 Q. And so they based the 990 off what you told them, right?

3 A. Yes.

4 Q. So you lied to your accountants as well in their  
5 preparation, right?

6 A. Yes, sir.

7 Q. Also, one of the officers of the foundation, as we saw  
8 on the Form 990, was Sakina Robinson, right?

9 A. Yes, sir.

10 Q. And that's your wife, Ms. Robinson?

11 A. Yes, sir.

12 Q. And with regard to any tax fraud that you pled guilty  
13 to, with regard to taking money from your campaign, with  
14 regard to taking money from the foundation, you lied to  
15 Ms. Robinson about all that as well?

16 A. Yes, sir.

17 Q. And similarly, we talked a little bit yesterday, as did  
18 you and Mr. Martin, about your daughter Amanda, right?

19 A. Yes, sir.

20 Q. And Amanda worked at Get Smart, right?

21 A. Yes, yes.

22 Q. She was executive director?

23 A. Yes, sir.

24 Q. And you lied to her as well about all this, right?

25 A. No, sir.

1 Q. You told her you were taking bribes?

2 A. Did I tell her I was taking bribes?

3 Q. Yes, sir.

4 A. No, sir.

5 Q. You didn't tell her you were cheating on your taxes, did  
6 you?

7 A. No, sir.

8 Q. You didn't tell her that you were taking money out of  
9 the foundation and using it for your own purposes, did you?

10 A. That was not her issue. I mean she -- she did not need  
11 to know that. Not that I lied to her.

12 Q. Okay. And you didn't tell her --

13 A. No, I didn't tell her.

14 Q. You didn't tell her, right?

15 A. I didn't tell her.

16 Q. As far as she knew, you were on the up-and-up?

17 A. Yes.

18 Q. All right. Let me turn your attention, Mr. Robinson, to  
19 the meeting of the Alabama Environmental Management  
20 Commission before whom you appeared in February of 2015.

21 A. Yes.

22 MR. SHARMAN: All right.

23 Sam, could you pull up Government's Exhibit G4, please?

24 I'm sorry. That's the wrong one. That's not what I  
25 wanted.

1 Q. You wrote a letter to Chairman Lanier Brown asking for  
2 permission to appear, right?

3 A. Yes, from the draft from Joel Gilbert.

4 Q. And Mr. Gilbert drafted the content of that letter,  
5 right?

6 A. Yes, sir.

7 Q. And then you took it and put it on your letterhead,  
8 right?

9 A. Yes, sir.

10 Q. The content of that letter was drafted by Mr. Gilbert.  
11 Was there anything in that letter that you sent to Chairman  
12 Brown a lie?

13 A. No, sir.

14 (Defendant's Exhibit 12 was referenced.)

15 MR. SHARMAN: All right. Your Honor, defendants  
16 offer -- or Mr. Gilbert offers in evidence Defendant's  
17 Exhibit 12, which is a copy of the video from the Alabama  
18 Environmental Management Commission website. We move its  
19 admission, please.

20 THE COURT: Are you going to play it?

21 MR. SHARMAN: And then play it, yes, sir.

22 THE COURT: You want to play the entire video, which  
23 shows the same content that was shown last week just, so  
24 the jury can see there were people in the audience?

25 MR. SHARMAN: That is one reason, Your Honor.

1 THE COURT: Is the --

2 MR. SHARMAN: I beg your pardon?

3 THE COURT: No, go ahead. Is the language different?  
4 Because, I mean, the recording that was played on Tuesday  
5 accurately reflected Mr. Robinson's statements to the  
6 commission.

7 MR. SHARMAN: We have no dispute with the content of  
8 the words, the statements that were played on Tuesday. But  
9 the government -- this is a centerpiece of this supposed  
10 conspiracy, Your Honor, and we would like to ask  
11 Mr. Robinson some questions based on the video again and  
12 show it to the jury again.

13 THE COURT: You can ask him questions about it, but do  
14 we need the video for the questions to be asked? I'm  
15 trying to speed things up. This is not directed at you  
16 personally. This is directed at everyone. The video, if I  
17 recall, thanks to the prefatory comments that Mr. Robinson  
18 made, is roughly 10 minutes. If you play it and ask  
19 questions, then that will probably be longer than  
20 10 minutes. Is there a way to question the witness without  
21 playing the video?

22 MR. SHARMAN: If you order me to, Your Honor.

23 THE COURT: Well, that's not my question. My question  
24 is, is there a way?

25 MR. SHARMAN: The allegation in the indictment is that

1 this was the event that Mr. Robinson unlawfully pressured  
2 and advised --

3 THE COURT: I don't have any problem with that. It's  
4 do we need the video to cross-examine him is -- sounds like  
5 you do. You can go ahead and play it. I think it's  
6 repetitive. Obviously, you have every right to disagree.

7 12, obviously, Mr. Martin has no objection to the  
8 exhibit itself coming in since it's the same content as the  
9 one that you introduced; is that correct?

10 MR. MARTIN: That's correct, Your Honor.

11 THE COURT: Okay. 12 is received and may be published.  
12 (Defendant's Exhibit 12 was admitted into evidence.)

13 MR. SHARMAN: Thank you, Your Honor.

14 Q. And, Mr. Robinson, I'm going to ask you, if you would,  
15 to listen and watch the video. And then I want you to tell  
16 us at what point you're pressuring the commission. That's  
17 going to be my question, okay, at the end of it. Okay?  
18 You understand what I'm saying?

19 A. I understand what you're saying, yes, sir.

20 MR. SHARMAN: Sam, can we play that, please?

21 (Audiovisual evidence played in open court.)

22 Q. Mr. Robinson, tell us the points at which you were  
23 pressuring Chairman Brown and his fellow commissioners.

24 A. Initially, once I stated to them that I needed  
25 information from them, because that had been a part of the



1 conversations and the meetings that I had with Joel Gilbert  
2 and David Roberson. Also, in the end or close to the end  
3 where I asked -- and which was the major point of the  
4 meetings that we had, was that we asked ADEM and Director  
5 LeFleur to come to Birmingham. That was the major reason  
6 why, in conversations that I had with Joel Gilbert and  
7 David Roberson to go and to speak to the commission in the  
8 first place, was to get the department to come to  
9 Birmingham because the department was the only vehicle at  
10 that time, to my knowledge, that could slow the process of  
11 the EPA and what they were doing in North Birmingham and,  
12 further, in Tarrant and Inglenook.

13 So those, out of the 10 minutes that I spoke, the major  
14 emphasis from my conversations with Mr. Roberson and  
15 Mr. Gilbert was to do and say what I could in order to get  
16 the commission to move to the point to where they would  
17 have Mr. LeFleur to engage again with the EPA on slowing  
18 the process or stopping the process in North Birmingham.

19 Q. You asked for information, right?

20 A. I did.

21 Q. And you asked for ADEM to become more engaged, right?

22 A. To come to Birmingham.

23 Q. Become more engaged by coming to Birmingham, right?

24 A. Yes.

25 Q. Those two things?

1 A. Yes, sir.

2 Q. Yesterday on direct -- you can put that down.

3 Yesterday on direct, Mr. Martin asked you a couple of  
4 questions about what you characterized, I believe, as your  
5 reluctance to go to the commission meeting. Do you  
6 remember some of those questions with him?

7 A. Yes, sir.

8 Q. And my notes say generally that you were asked, "Were  
9 you reluctant to go to the commission meeting to speak?"  
10 And you said, "Yes, sir, I was." And Mr. Martin asked,  
11 "Why is that?" And you said, "Because I had a feeling  
12 politically that it would interfere with what was going on  
13 in North Birmingham as related to the Environmental  
14 Protection Agency." Do you remember generally those  
15 questions?

16 A. I remember. Yes.

17 Q. All right. Now, back in February of last year when you  
18 were being interviewed by the FBI, they also asked you  
19 about why you went, how it came about that you went, right?

20 A. Yes.

21 Q. And you remember telling the FBI in February of last  
22 year that "Tarrant is close to Robinson's residence.  
23 Robinson did not want to be near a Superfund site." Do you  
24 remember telling them that?

25 A. I remember that.

1 Q. And then if you could look --

2 (Government's Exhibit 43 was referenced.)

3 MR. SHARMAN: And Sam, if you could pull up  
4 Government's 43, please, sir.

5 Q. -- which you also discussed with Mr. Martin yesterday.  
6 And then if you --

7 MR. SHARMAN: Just to remind us, if you could highlight  
8 the top part, Sam, please.

9 Q. And this is what you discussed with Mr. Martin. And  
10 this is an email from Mr. Gilbert to you and copying  
11 Mr. David Roberson, right?

12 A. Yes.

13 Q. And this is on February 6, 2015?

14 A. Yes, sir.

15 Q. And it says "Oliver, appreciate you meeting with us on  
16 such short notice. Hope it was not too much of an  
17 imposition. Was going to ask that you send us a copy of  
18 the letter once it has been submitted today for our  
19 records." Again, that's your letter sent to Chairman Brown  
20 asking to appear. That's the letter here, right?

21 A. Yeah, after the draft.

22 Q. Mr. Gilbert says "Thanks again. We can talk the first  
23 of next week regarding your thoughts on providing comments.  
24 As discussed, you can always withdraw the request if  
25 needed. Have a great weekend. Joel." Do you see where I

1 read that?

2 A. Yes, sir.

3 Q. Now, your concerns were political rather than based on  
4 anything having to do with the EPA, right?

5 A. The EPA is political.

6 Q. Well, your concerns -- actually, I agree with you on  
7 that. That is a true statement.

8 Your concern, at least as expressed to Mr. Gilbert, was  
9 that because ABC Coke was actually physically situated not  
10 in your district but in the adjacent district represented  
11 by one of your colleagues, you were concerned whether you  
12 might be stepping on the toes, so to speak, of your  
13 colleague, right?

14 A. Are you referring to Representative Moore?

15 Q. Yes. That Representative Moore represented the district  
16 that actually physically contained the ABC Coke plant,  
17 right? Wasn't in your district?

18 A. That was -- that's not correct. The reason why was  
19 because of the work that was being done by Councillor  
20 William Parker as it related to the EPA in the area. It  
21 wasn't because of Representative Mary Moore because we had  
22 discussions about ABC Coke.

23 Q. Okay. So you would say -- you say it's not a true  
24 statement that your concern was stepping on the toes of a  
25 fellow House legislator, right? That's what you're saying?

1 A. That's what I'm saying.

2 Q. All right. Now, yesterday, also, Mr. Martin asked you  
3 some questions -- you can take that down -- asked you some  
4 questions about a meeting that took place at Balch &  
5 Bingham that was reflected in what we just looked at about  
6 preparing for your attendance at the commission meeting,  
7 right?

8 A. Yes, sir.

9 Q. And my notes say that Mr. Martin basically said, "Can  
10 you tell us what the meeting was and what this email is  
11 about," talking about the email we just saw. And you said,  
12 "The meeting was about what I would say at the commission  
13 meeting." Do you remember saying that?

14 A. Yes, sir.

15 Q. And he also asked you, basically, "Did you have any  
16 meetings to discuss the commission meeting and what to say  
17 or what would happen at the meeting?" "Yes, sir, I did."  
18 "Tell us about that." "The meeting was held at Balch's  
19 office on the 15th floor of the AmSouth Plaza. In  
20 attendance was myself, Joel Gilbert, Mr. Roberson, and Trey  
21 Glenn." Do you remember saying that?

22 A. Yes, sir.

23 Q. And Mr. Martin then asked you what happened, and you  
24 said, "We discussed the members of the board of directors  
25 of the commission. We discussed how to approach the

1 meeting. We talked about a possible meeting with Lanier  
2 Brown, and we talked about the issue of North Birmingham."  
3 Do you remember saying that?

4 A. Yes.

5 Q. Now, Mr. Gilbert didn't give you any notes to use at the  
6 commission meeting, right?

7 A. No, sir.

8 Q. In the video, we saw you referring down to some notes,  
9 right?

10 A. Yes, sir.

11 Q. Those were notes that you created?

12 A. Yes, sir.

13 Q. Mr. Gilbert didn't give you any kind of outline to  
14 follow, right?

15 A. No, sir.

16 Q. He didn't give you a PowerPoint slide to use, right?

17 A. Yes.

18 Q. When you were in that meeting at Balch & Bingham, you  
19 didn't say, "Hey, where's my money? Where's my bribe for  
20 this?" Right? You didn't say anything about that?

21 A. No, sir.

22 Q. And nobody in attendance at the meeting said, "Hey,  
23 here's your money," or, "Here's going to be your money for  
24 doing this," right? Nobody said anything like that?

25 A. No, sir.

1 Q. And in fact, as we saw on the email, Mr. Gilbert told  
2 you that if you're uncomfortable with appearing, you could  
3 withdraw your request, right?

4 A. Yes, and there's a follow-up email to that as well.

5 Q. And the reason why the email -- excuse me -- the letter  
6 needed to be sent on that day was because there was a  
7 two-week window that you had to meet in order to be  
8 considered for appearance at the commission, right?

9 A. True.

10 Q. The commission meets, I think you've learned, every  
11 other month, right?

12 A. True.

13 Q. So if you miss putting in your request, say, for the  
14 February meeting, if you miss the deadline, then you're not  
15 going to have another opportunity to make another request  
16 until you get to the April meeting, right?

17 A. True. That would have put the meeting that Dr. Propst  
18 spoke at farther out than it was because Dr. Propst had  
19 spoken probably at the previous meeting. So they wanted --

20 Q. Yes, sir. Dr. Propst spoke in December of 2014?

21 A. Uh-huh. So they wanted to make sure that I spoke as  
22 quickly as I could from that meeting, and the closest one  
23 would have been February.

24 Q. Yes, sir. Certainly. And my only question is the need  
25 to get in the letter that day was because of the timing

1 issue because of the two-week window, right?

2 A. Sure.

3 Q. But you could always withdraw it or simply just not show  
4 up?

5 A. But there was a follow-up email to that.

6 Q. But just stay with me.

7 A. I'll -- yes.

8 Q. You make a request. You could always withdraw it,  
9 right?

10 A. Yes.

11 Q. And that's what Mr. Gilbert told you?

12 A. Yes.

13 Q. And you could always, just as a practical matter, just  
14 not show up if even if you don't formally withdraw it,  
15 right?

16 A. Yes.

17 Q. All right. Now, I believe you said that one of the two  
18 items that you considered to be an attempt to pressure  
19 Chairman Brown and his fellow commissioners was that you  
20 were seeking to have ADEM come to Birmingham to engage more  
21 in the matter, right?

22 A. That was the main point.

23 Q. And do you remember telling the FBI last year that they,  
24 referring to Mr. Gilbert and Mr. Roberson, wanted ADEM to  
25 come to North Birmingham and do testing to determine who



1 was responsible for contamination in that area? Do you  
2 remember telling the FBI that last year?

3 A. Yes, sir.

4 Q. That was, in fact, your intent which you referenced in  
5 your presentation, to determine who was responsible, right?

6 A. Correct.

7 Q. And do you remember, also, in that same March interview  
8 last year with Agent Hunt, do you remember telling the FBI  
9 that Robinson's message to the ADEM and EMC was not about  
10 preventing the area from becoming a Superfund site but  
11 about preventing it from being added to the EPA's National  
12 Priorities List. Do you remember telling the FBI that last  
13 year?

14 A. Yes, sir.

15 Q. Then you were interviewed again just last month by the  
16 FBI, right, in June?

17 A. Yes, sir.

18 Q. About mid June, about June 14 or so. Does that sound  
19 right?

20 A. Yes, sir.

21 Q. And then do you remember telling the FBI just last  
22 month, "In the end, Robinson thought he could speak to the  
23 AEMC without hurting the goals of the community to get it  
24 on the NPL, National Priorities List, so they would have  
25 someone who could pay for the cleanup." Do you remember

1 saying that to them just last month?

2 A. Yes, sir.

3 Q. When Mr. Gilbert provided you with content for the  
4 letter, y'all discussed the content, right? Showed you the  
5 draft?

6 A. Yes.

7 Q. And you didn't make any changes or edits to it, did you?

8 A. No, sir.

9 Q. And you just took it and adopted it as your own, right?

10 A. Yes. Basically, yes.

11 Q. Mr. Gilbert didn't tell you to put it on your  
12 letterhead, right?

13 A. No.

14 Q. And, in fact, the draft that you received had -- at the  
15 bottom beneath your signature block, actually had your home  
16 address on it, right?

17 A. Yes.

18 Q. And, in fact, the letter that ended up going to the  
19 commission is on your letterhead in the Alabama House but  
20 also has your home address at the bottom?

21 A. Yes.

22 Q. And at no time did Mr. Gilbert tell you to put any  
23 communication on your letterhead?

24 A. No, sir, he didn't, and he did not object.

25 Q. Well, he couldn't object on the letter to Chairman Brown

1 because he didn't tell you to put it on letterhead, and he  
2 couldn't have realized it was on letterhead until he got  
3 the copy from Ms. Tymes, right?

4 A. Exactly. And that's when he could have objected.

5 Q. And then there was a second letter that you sent to  
6 Director LeFleur asking documents, right --

7 A. Yes.

8 Q. -- asking for documents, right?

9 A. May 4. March 4, I'm sorry.

10 Q. That was on your letterhead?

11 A. Yes, sir.

12 Q. And Ms. Tymes sent a copy of that to Mr. Gilbert, also,  
13 right?

14 A. Yes, sir.

15 Q. And in your commission appearance that we just watched  
16 again, you didn't lie to Chairman Brown, did you?

17 A. No, because Mr. Gilbert and Mr. Roberson wanted  
18 Mr. LeFleur and ADEM to come to Birmingham.

19 Q. Let me break that up. Let's just answer my question  
20 first. You didn't lie to Chairman Brown in your  
21 presentation?

22 A. No.

23 Q. Everything you said from your perspective was, in fact,  
24 true?

25 A. And what was needed to be said after my conversations

1 with Mr. Gilbert and Mr. Roberson.

2 Q. Everything you said to the commission was true, right?

3 A. Right.

4 Q. The next time you saw Mr. Gilbert after your commission  
5 meeting, he didn't complain or chew you out or say, "What  
6 in the world were you thinking?" Right?

7 A. No, he did not.

8 Q. He didn't say anything like, "You've got to do a better  
9 job than that if you want these contract payments," right?  
10 He didn't say anything like that?

11 A. No, because I had done what he asked to do.

12 Q. What you did was tell the truth to the commission.  
13 We've established that, right?

14 A. Yes.

15 Q. And after your appearance at the commission that we just  
16 watched, you never followed up -- well, let me back up.  
17 You never went to the commission again, right?

18 A. Never went to the commission again, no.

19 Q. You never followed up with Chairman Brown?

20 A. No.

21 Q. You didn't ask -- or you didn't follow up with any other  
22 commissioner, right?

23 A. No.

24 Q. You didn't ask Chairman Brown to do anything or not do  
25 anything, right?

1 A. No, but got information from Director LeFleur.

2 Q. And you didn't ask any other commissioner to do  
3 something or not do something, right?

4 A. No.

5 Q. You did follow up with a letter to Director LeFleur,  
6 right?

7 A. Yes.

8 (Government's Exhibit 80 was referenced.)

9 MR. SHARMAN: Sam, could we see Government's 80, which  
10 is in evidence, please. That's the letter to Director  
11 LeFleur. All right. And if we could highlight the first  
12 paragraph again.

13 Q. Now, you write Director LeFleur, and you copy, as we saw  
14 yesterday in discussions with Mr. Martin, members of the  
15 commission, right?

16 A. Yes.

17 Q. All right. And what you're doing in this letter is  
18 you're asking Director LeFleur for information, right?

19 A. Yes, sir.

20 Q. And in particular, you're asking for any information  
21 that Director LeFleur and others at ADEM have had with  
22 various parties concerning North Birmingham. Do you see  
23 where I read that kind of in the middle there?

24 A. Yes, yes.

25 Q. And you had some specific requests, right?

1 A. Exactly.

2 Q. And specifically, you say, "with EPA, other agencies  
3 and/or departments within the State of Alabama or the  
4 federal government, the residents of North Birmingham area,  
5 the City of Birmingham, and GASP." So, basically, there  
6 you're asking, "Would you please provide correspondence,  
7 information, data, whatever you have on the subject of  
8 North Birmingham to or from these entities and people,"  
9 right?

10 A. Basically, Mr. Gilbert was asking on my letterhead.

11 MR. SHARMAN: Well, let's nail that down.

12 Sam, could you go back up to the letterhead, please?

13 Q. Okay. This is your letterhead, right?

14 A. Yes.

15 MR. SHARMAN: Sam, could you go to the bottom, the  
16 signature block?

17 Q. And that's your signature, right?

18 A. Yes.

19 Q. And you're asking information from Director LeFleur in  
20 this letter, right?

21 A. Yes.

22 Q. And there's -- there's no lies in this letter, right?

23 A. No.

24 Q. Everything you're saying is true --

25 A. The request is --

1 Q. -- right?

2 A. -- directly from Mr. Gilbert.

3 Q. That was not the question. Everything in this letter is  
4 true, isn't it?

5 A. Yes, sir.

6 Q. You're not lying to Director LeFleur?

7 A. Oh, no, sir.

8 Q. You're not trying to deceive Director LeFleur?

9 A. No, sir.

10 Q. You're asking "Please send me documents," right?

11 A. Yes.

12 Q. Now, yesterday --

13 MR. SHARMAN: Actually, Sam, keep that up, please.

14 Q. Yesterday, Mr. Martin asked you, "What was the purpose  
15 of the letter to Director LeFleur about information?" And  
16 my notes say that you said, "The purpose was to ask for  
17 information from the commission and actually to force, in  
18 essence, the director of ADEM to get involved and to come  
19 to Birmingham, which was the premise for me speaking in the  
20 first place." Do you remember that question and answer  
21 generally?

22 A. Yes, sir.

23 Q. Okay. So let's look at the first paragraph again,  
24 please, sir. At what points in this paragraph are you  
25 forcing Director LeFleur to do something?

1     **A.** I'm not forcing him. I'm requesting.

2           MR. SHARMAN: Let's go to the second paragraph, please,  
3     Sam.

4     **Q.** At what point in the second and in the concluding  
5     paragraph are you forcing Director LeFleur to do something?

6     **A.** There's not a force in there.

7           MR. SHARMAN: And then, Sam, if we could see G86, which  
8     is the response letter from Director LeFleur.

9     **Q.** All right. You and Mr. Martin discussed this letter or  
10    email briefly yesterday.

11          MR. SHARMAN: And if you could highlight the top,  
12    please, Sam?

13    **Q.** This is, I believe you established with Mr. Martin,  
14    Director LeFleur's response to your letter, right?

15    **A.** Yes, sir.

16    **Q.** It wasn't directed directly to you but rather to  
17    Jacqueline Tymes, right?

18    **A.** Yes.

19    **Q.** And Ms. Tymes was at the time your assistant or one of  
20    your assistants at work at the House?

21    **A.** Yes.

22    **Q.** And then she says to Director LeFleur, "Thanks so  
23    kindly. I will forward this information to Representative  
24    Robinson," right?

25    **A.** Correct.



1 MR. SHARMAN: Sam, if you could go down to the bottom to  
2 the attachments. All right. And actually, if you could  
3 highlight all of the attachments, get it all the way to the  
4 bottom, please.

5 Q. All right. Then what we have below are the listing of  
6 the documents that apparently Director LeFleur considered  
7 to be responsive to the request, right?

8 A. Correct.

9 Q. And they're in different forms. We see some appear to  
10 be emails, some appear to be PDFs, and so forth. But these  
11 are the documents that you understand he or he and his  
12 staff considered to be responsive to your request, right?

13 A. Correct.

14 Q. And these are all documents, as best you can tell, that  
15 were either sent from or received to -- received by ADEM,  
16 right?

17 A. Correct.

18 Q. That's why Director LeFleur had them?

19 A. Right.

20 Q. And these are all documents that you, based on your  
21 experience in public life, would consider to be public  
22 documents, right?

23 A. Correct.

24 Q. And it wouldn't surprise you to learn, for example, that  
25 Director LeFleur and his staff considered your request to

1 be, in essence, a public records request?

2 A. Correct.

3 Q. And that happens from time to time in state government.  
4 There's a mechanism by which an interested party can  
5 actually request on a topic of a state agency, "Hey,  
6 produce me all your records," right?

7 A. Correct.

8 MR. SHARMAN: You can take that down, Sam. Thank you.  
9 (Government's Exhibit 93 was referenced.)

10 Q. All right. Let me turn your attention to Government's  
11 Exhibit 93, which you and Mr. Martin discussed yesterday.  
12 Just to help you out --

13 MR. SHARMAN: May I approach, Your Honor?

14 THE COURT: You may.

15 Q. (BY MR. SHARMAN:) Show you a paper copy as well. It  
16 may be easier to work with than the screen.

17 All right. Exhibit 93 that you discussed with  
18 Mr. Martin is a collection of the Oliver Robinson  
19 Foundation bills to Balch & Bingham; is that right?

20 A. Correct.

21 Q. Take just a moment, kind of flip through it, make sure  
22 that that's, in fact, what it is.

23 A. It's the exact same documents.

24 Q. Now, yesterday, you and Mr. Martin had a considerable  
25 discussion about a check from Balch & Bingham that the

1 foundation received four days before the commission  
2 meeting. Do you remember that discussion? And my notes  
3 say Mr. Martin asked, "Did you also get a \$14,000 check?"

4 You responded, "Yes, sir."

5 The question was next, "Was that also four days before  
6 your commission meeting?"

7 You answered, "Yes, sir. I think that was on the 12th.

8 "Were you expecting an agreement or a payment then?"

9 You answered, "No, sir."

10 And then the question was asked, "What was your  
11 understanding of when Balch & Bingham or Drummond were  
12 going to be paying you?"

13 And you responded, "We didn't know. I didn't know."

14 Do you remember those questions and answers?

15 A. I remember.

16 Q. So if you'll look at the first page of Exhibit 93,  
17 that's an invoice, a bill, from the foundation to Balch,  
18 right?

19 A. Exactly.

20 Q. And it's dated February 9, 2015, right?

21 A. Yes, sir.

22 Q. So before the 16th, before this discussion that you and  
23 Mr. Martin talked about, the foundation had sent Balch a  
24 bill already, right?

25 A. Exactly.

1 Q. Had sent them a bill for the two months, \$14,000, right?

2 A. Exactly.

3 Q. And you had a reasonable expectation that when you sent  
4 the bill on February 9 that the bill hopefully would be  
5 paid, right?

6 A. Exactly.

7 Q. And you didn't know exactly when, but you had already  
8 sent the bill in, right?

9 A. Yes, sir.

10 Q. And you would hope that it would be paid in some  
11 commercially reasonable period of time -- 30 days or less,  
12 right?

13 A. Hopefully.

14 Q. All right. Now, if you would look at Exhibit 93 as a  
15 whole, which is all the bills, all the statements that the  
16 foundation sent to Balch & Bingham, and if you would,  
17 please, sir, tell me which ones are true and which ones are  
18 false?

19 A. All are true.

20 Q. They're all true?

21 A. To my knowledge. Unless you want me to go through one  
22 by one.

23 Q. If you're comfortable with that testimony, I won't ask  
24 you to do that.

25 MR. SHARMAN: You can take that down, Sam. Thank you.

1 A. I'm comfortable.

2 MR. SHARMAN: All right.

3 May I approach, Your Honor?

4 THE COURT: You may.

5 (Defendant's Exhibit 655 was referenced.)

6 Q. (BY MR. SHARMAN:) I'm handing to the government and  
7 showing to the witness what has been marked as Defendant's  
8 Exhibit 655.

9 Mr. Robinson, I ask you to take a look at 655 and let me  
10 know when you have had a chance to do that.

11 A. This is the document that went out to the residents and  
12 property owners in North Birmingham in January of 2015.

13 Q. All right. These were the comment letters that you and  
14 Mr. Martin touched on yesterday, right?

15 A. Yes, sir.

16 Q. Now, when y'all discussed it, my notes reflect that  
17 Mr. Martin asked you, "So did you and Joel Gilbert want the  
18 EPA to believe these letters were coming from" -- and you  
19 replied, "Different."

20 And he continued, "different people, not as a  
21 coordinated effort by a law firm?"

22 And you responded, "Exactly."

23 Do you remember that?

24 A. Yes, sir.

25 Q. All right. If you will flip through these, if you

1 haven't had a chance to do so already, please, sir. Each  
2 of these letters has the name of an individual, right?

3 A. Yes, sir.

4 Q. And each has an address, right?

5 A. Yes, sir.

6 Q. And each is an address of a residence, right?

7 A. Right. Or landowner.

8 Q. I beg your pardon?

9 A. Or landowner.

10 Q. Or a property owner or landowner. That's exactly right.  
11 So these letters were coming from individuals?

12 A. Yes. Yes.

13 Q. I believe you said 93 individuals, right?

14 A. To my knowledge, 93.

15 Q. That's obvious on the face of the letter, right, because  
16 each one is coming from a different individual, right?

17 A. Exactly.

18 Q. So there was nothing hidden about the fact that Adrienne  
19 was the signatory on the first letter?

20 A. No, sir.

21 Q. Now, based on your experience in community outreach, if  
22 you want to end up with or if you do end up with 93  
23 letters, that is a more challenging job than simply going  
24 to 93 houses and knocking on a door, right? It takes more  
25 than that?

1 A. Yes, unless you really know the area and the people.

2 Q. Right. As a preliminary matter, you got to step back  
3 and say, "All right. Who and where do we need to go" --

4 A. Yes.

5 Q. -- right? And you need to step back and say, "Are there  
6 people who might be able to direct us in the right way to  
7 go?" Right?

8 A. Correct.

9 Q. So to do that, you might visit with people at a  
10 community center or a church, for example?

11 A. Yes.

12 Q. You might go to a business owner and ask the business  
13 owner what he or she thought?

14 A. Yes.

15 Q. You might go to a local official and get their views or  
16 ask who we need to talk to, right?

17 A. Correct.

18 Q. Or you might go to the  
19 head-of-a-neighborhood-association type person, right?

20 A. Correct.

21 Q. And then after you do all that, you actually have to do  
22 the work out on the ground, right?

23 A. Correct.

24 Q. And that means you've got to go and, you know, knock on  
25 people's doors, right?

1 A. Correct.

2 Q. And sometimes they're home and sometimes they're not?

3 A. Yes.

4 Q. Sometimes they'll talk to you; sometimes they won't. Is  
5 that right?

6 A. Yeah, unless you know previously that -- how they feel  
7 about it.

8 Q. And sometimes they'll talk to you readily and easily,  
9 and sometimes they'll be a little more reticent and  
10 skeptical, right?

11 A. Yes.

12 Q. And so for the people that are missing, not at home,  
13 obviously you got to go back and try again, right?

14 A. Or to the next door.

15 Q. Or keep on going to the next door, right? And the  
16 people who are skeptical and reticent, you might have to  
17 come back and visit them again, right?

18 A. There's enough people in North Birmingham to where you  
19 can continue to go from door to door.

20 Q. So it's a lot of work, it's fair to say, went into  
21 getting 93 letters signed, right?

22 A. In this case, not really.

23 Q. Because you're saying that there's something special  
24 about this case that makes it unlike any other community  
25 outreach effort?



1     A. Yes, because we knew -- well, John Powe knew exactly the  
2     area to go to because he had understanding and knowledge of  
3     North Birmingham and the residents in North Birmingham and  
4     how many of them felt about the process that was going on  
5     as it related to the NPL list.

6     Q. Exactly. And that a bunch of them would actually  
7     willingly sign a letter saying, "I don't like what's going  
8     on"?

9     A. Yes.

10    Q. In fact, that's a good reason to hire a community  
11    outreach organization or foundation is because they, in  
12    fact, have contacts in the community or know people.  
13    That's a good reason to hire somebody?

14    A. Exactly.

15           MR. SHARMAN: Your Honor, we offer Defendant's  
16    Exhibit 655.

17           MR. MARTIN: No objection.

18           THE COURT: Thank you, Mr. Martin.

19           655 is in and may be published.

20    (Defendant's Exhibit 655 was admitted into evidence.)

21    Q. (BY MR. SHARMAN:) Let's show the first page to remind  
22    the jury. I won't take the time because we saw this with  
23    Mr. Martin yesterday.

24           MR. SHARMAN: May I approach, Your Honor?

25           THE COURT: You may.

1 (Defendant's Exhibit 714 was referenced.)

2 Q. (BY MR. SHARMAN:) I am going to hand to the government  
3 and show Mr. Robinson what has been marked as Defendant's  
4 Exhibit 714?

5 Mr. Robinson, if you would, take a look at that, at 714,  
6 just enough to familiarize yourself with it. And let me  
7 know when you've done that, please.

8 A. I'm familiar with the surveys.

9 Q. All right. These are surveys that Get Smart did in  
10 neighborhoods, right?

11 A. Yes, sir.

12 Q. And you recognize 714 as that?

13 A. Yes, sir.

14 Q. Or a collection of those?

15 A. Yes.

16 MR. SHARMAN: We move 714 into evidence, please.

17 MR. MARTIN: No objection.

18 THE COURT: Thank you. 714 is in and may be published.

19 (Defendant's Exhibit 714 was admitted into evidence.)

20 Q. (BY MR. SHARMAN:) And so this questionnaire was taken  
21 by Get Smart folks throughout the neighborhood, right?

22 A. Yes.

23 Q. Okay. And Get Smart people asked residents to fill in,  
24 if they would, answers to a number of questions --

25 A. Yes.

1 Q. -- right? And the questionnaire is fairly short. It  
2 basically has four questions; is that right?

3 A. Yes.

4 Q. Okay. And the first question is, well, "How long have  
5 you lived here?" Right? Is that right?

6 A. Yes, sir.

7 Q. And in community outreach, you need to know that because  
8 you need to have some sense of is the person a newcomer and  
9 going to be unfamiliar with things or are they a long-time  
10 resident and they're likely to be more familiar, right?

11 A. Or renters.

12 Q. Or renters versus property owners?

13 A. Exactly.

14 Q. And the renter versus property owner distinction, at  
15 least in this outreach, may have been or became important  
16 because a renter, it was your understanding, generally did  
17 not have authority to allow testing or sampling on a  
18 property he or she did not own?

19 A. Correct.

20 Q. The owner obviously could allow that, right?

21 A. Correct.

22 Q. All right. So the first question in the survey was,  
23 "How long have you lived in the area?" And the second one  
24 was, "What are your major concerns in the area?" Right?

25 A. Right.

1 Q. Okay. And that, based on your community outreach  
2 experience, is an open-ended kind of question to try to get  
3 the person to open up and just generally say what's on your  
4 mind, what are you worried about, right?

5 A. Correct.

6 Q. You're not giving them -- you're not giving them the  
7 answer. You're trying to let them tell you what is on  
8 their mind?

9 A. Initially.

10 Q. Okay. And then specific to this outreach, residents  
11 were asked, "Have you ever heard of the Environmental  
12 Protection Agency?"

13 A. Correct.

14 Q. And then they were also asked, "Have you ever heard of  
15 the Superfund site or the NPL list?" Right?

16 A. Correct.

17 Q. And so in community outreach, those were two kinds of  
18 questions that you asked to try to gauge the awareness, the  
19 existing awareness, that is, of the person you're speaking  
20 with about the issues that you may then follow up with,  
21 right?

22 A. Correct.

23 Q. And do you have any recollection of looking at these  
24 surveys when they were done?

25 A. Yes, sir, I do.

1 Q. And on the major concerns question, Question Number 2,  
2 there were a variety of responses, right?

3 A. Yes, sir.

4 Q. Some people didn't fill it out that either had no  
5 concerns or didn't articulate them, right?

6 A. Exactly.

7 Q. Just left them blank. Some had what might be considered  
8 properly environmental concerns, whether it had to do with  
9 ABC Coke or some other plant, right?

10 A. Yes, sir.

11 Q. Okay. And some had concerns about the economic  
12 deterioration of their neighborhood, right; they had  
13 economic concerns?

14 A. Yes.

15 Q. And some had concerns about crime, about the amenities  
16 of the neighborhood, right?

17 A. Yes.

18 Q. Okay. So there was a variety of concerns, right?

19 A. Yes.

20 Q. And then Get Smart took this information and then tried  
21 to use it to inform what might be a good persuasive sort of  
22 campaign; is that fair?

23 A. That's fair.

24 MR. SHARMAN: May I approach, Your Honor?

25 THE COURT: You may.

1 (Defendant's Exhibit 713 was referenced.)

2 MR. SHARMAN: I'm going to hand to the government and  
3 show Mr. Robinson what has been marked as Defendant's  
4 Exhibit 713.

5 Q. If you would, Mr. Robinson, please take a look at that  
6 and let me know when you've had a chance to do so.

7 A. I've had a chance to do so.

8 Q. All right. This is another form of questionnaire  
9 prepared by Get Smart, right?

10 A. Yes, sir.

11 Q. That was then, you know, taken out into the neighborhood  
12 and responses sought, right?

13 A. Yes, sir.

14 Q. And you recognize that's what this is?

15 A. Yes, similar to the first one.

16 MR. SHARMAN: And we move Defendant's Exhibit 713 into  
17 evidence, please.

18 MR. MARTIN: No objection.

19 THE COURT: 713 is received and may be published.  
20 (Defendant's Exhibit 713 was admitted into evidence.)

21 Q. (BY MR. SHARMAN:) All right. Again, we see a  
22 questionnaire of -- and again with four questions, right?

23 A. Yes, sir.

24 Q. But they're different questions on this survey, right?

25 A. Yes, sir. Yes, sir.

1 Q. All right. The first question is, "Has the EPA been to  
2 your home?" Right?

3 A. Yes.

4 Q. And then the second one asks, "Did you give the EPA  
5 authority to test your soil?" Right?

6 A. Yes.

7 Q. Okay. So in these questions, in this survey, Get Smart  
8 was trying to identify the population of folks in the  
9 neighborhood who had been visited by EPA, and if they had  
10 been visited, had the person given them authority to  
11 conduct tests?

12 A. Correct.

13 Q. That's what we're trying to figure out?

14 A. Correct.

15 Q. And then third, Question Number 3, is, "Will you  
16 authorize us to do a split sample so we may ensure the  
17 EPA's accuracy?" And in this little parenthetical, "Get  
18 their signature."

19 So that third question, Get Smart is asking for  
20 permission, for authorization to do something, right?

21 A. Yes.

22 Q. And the something they're asking permission to do is to  
23 get what's called a split sample, right?

24 A. Yes.

25 Q. Okay. We're not scientists, but your understanding of a

1 split sample is that if a sample of soil or any other  
2 material is being taken, then someone else also gets a  
3 piece of that sample or shares in that sample in the same  
4 way as the original person taking it, right?

5 A. And I was in agreement with that, sure.

6 Q. That's why it's called split, right?

7 A. Exactly.

8 Q. And the reason people want a split sample is that if you  
9 have concerns about the accuracy or the intent or the  
10 qualifications or the scientific reliability of the person  
11 taking the sample, you might want to take that same  
12 material and provide it to your own laboratory, to your own  
13 scientist to double-check the people doing the first one,  
14 right?

15 A. Exactly.

16 Q. And then the last question just simply asks for the  
17 address of the person responding to the questionnaire; is  
18 that right?

19 A. Yes, sir.

20 Q. So Get Smart was -- part of their work was doing this.  
21 We had what might be called an attitude questionnaire:  
22 "What do you think about things?" And then one that might  
23 be called a survey questionnaire, what's -- I'm sorry. I  
24 mean, one that might be called a testing questionnaire:  
25 "What's been done with regard to testing?" Right?



1 A. Yes, sir.

2 Q. And to do this takes some money. You've got to pay  
3 people to do this?

4 A. Yes, sir.

5 Q. And it takes some time, right?

6 A. Yes, sir.

7 Q. You've got to write up the questionnaires, right?

8 A. Yes, sir.

9 Q. And then you've got to get them out to the community,  
10 right?

11 A. Yes, sir.

12 Q. You've got to get them filled out and brought back in,  
13 right?

14 A. Yes, sir.

15 Q. And then somebody has got to review them and figure out  
16 what, if anything, to do with the information?

17 A. Yes, sir.

18 Q. All right. And then also, I think in direct you  
19 mentioned -- and also in speaking with me -- mentioned that  
20 going to churches from time to time, having meetings there,  
21 that's a part of community outreach. That's --

22 A. It is.

23 Q. And there's nothing wrong with that on its face, right?  
24 That's just a way to get out a message to people, right?

25 A. Yes.

1 MR. SHARMAN: May I approach, Your Honor?

2 THE COURT: You may.

3 (Defendant's Exhibit 660 was referenced.)

4 MR. SHARMAN: I'm going to hand to the government and  
5 show to the witness what's been marked as Defendant's  
6 Exhibit 660.

7 Q. Take a look at 660, please, Mr. Robinson. Let us know  
8 if you can identify that, please, sir.

9 A. A listing of the churches that were visited by Get  
10 Smart.

11 Q. All right. And you recognize this as something that Get  
12 Smart was working on to try to get done to get these  
13 meetings set up, right?

14 A. Yes, sir.

15 MR. SHARMAN: We move for the admission of Exhibit 660,  
16 please.

17 MR. MARTIN: No objection.

18 THE COURT: Thank you. 660 is received and may be  
19 published.

20 (Defendant's Exhibit 660 was admitted into evidence.)

21 Q. (BY MR. SHARMAN:) All right. So just briefly to  
22 understand what we're looking at here, at the top, of  
23 course, this is a Get Smart church visitation schedule. Do  
24 you recognize the handwriting on there?

25 A. No, sir. This is -- let me look at it again. It's not

1 a visitation schedule. It's a list of the churches that  
2 would like to be visited.

3 Q. Okay, fair enough. The information is not so much a  
4 schedule, but rather information pertaining to the churches  
5 that might be --

6 A. In that area.

7 Q. -- in that area that might be a host to a Get Smart  
8 meeting, right?

9 A. Yes.

10 Q. And so we have different churches such as Lily Baptist,  
11 Rushing Spring. And then you have contact information for  
12 those various churches, right?

13 A. Yes, sir.

14 Q. And as far as you know, nobody was forcing anybody at  
15 any church to hold a meeting, right?

16 A. No, sir.

17 Q. Okay. The --

18 A. It was just a request.

19 Q. It was a request. And they could say yes or no?

20 A. Exactly.

21 Q. And then once a meeting at a church or a community  
22 center was set up, then Get Smart would try to get the word  
23 out that there's going to be a meeting so there would be  
24 people to attend, show up at a meeting, right?

25 A. Through the pastor of the church, once he stated that

1 it's okay to have the meeting.

2 Q. But Get Smart also did its own sort of publicity efforts  
3 to try to get people to come to the meetings, right?

4 A. Not often. It was mainly the church people that were  
5 attending that church.

6 MR. SHARMAN: May I approach, Your Honor?

7 THE COURT: You may.

8 (Defendant's Exhibit 661 was referenced.)

9 MR. SHARMAN: I'm going to show -- I'm going to provide  
10 to the government and show the witness what's been marked  
11 as Defendant's Exhibit 661.

12 Q. Take a look, please, at Exhibit 661, Mr. Robinson, and  
13 let me know when you've had a chance to do that, please.

14 A. I see the information.

15 Q. And you recognize this as a flyer or informational flyer  
16 from Get Smart --

17 A. Yes.

18 Q. -- about a church meeting?

19 A. Yes, left at the church.

20 MR. SHARMAN: We move the admission of Exhibit 661,  
21 please.

22 MR. MARTIN: No objection.

23 THE COURT: Thank you. 661 is received and may be  
24 published.

25 (Defendant's Exhibit 661 was admitted into evidence.)

1 Q. (BY MR. SHARMAN:) All right. So first at the bottom,  
2 there's an RSVP information, right?

3 A. Yes.

4 Q. And it says you may respond to this flyer, this  
5 information, by getting in touch with Amanda Robinson,  
6 right?

7 A. Correct.

8 Q. And that's, again, your daughter?

9 A. Yes, sir.

10 Q. And that was part of her job to do things like this,  
11 right?

12 A. Yes. Yes, sir.

13 Q. And things like this, doing this kind of work, that was  
14 part of what she was paid to do, right?

15 A. Yes, sir.

16 Q. Okay. She wasn't getting bribed. She was doing real  
17 work, right?

18 A. Yes, sir.

19 Q. And then customarily at these meetings, that would be an  
20 opportunity for Amanda or others from Get Smart to raise  
21 the issues about the EPA to the folks that showed up at the  
22 meeting --

23 A. Attended.

24 Q. -- or attended, right?

25 A. Yes.

1 Q. And again, as far as you know, not only was the hosting  
2 of the meeting by any churches voluntary, but also  
3 attendance was voluntary, right?

4 A. Exactly.

5 Q. People could attend if they wished and not if they  
6 didn't?

7 A. Exactly.

8 Q. Mr. Robinson, you said a moment ago that part of the  
9 effort before you go knocking on people's doors is to  
10 identify where they are and the people you want to go talk  
11 to, right?

12 A. Yes, sir.

13 Q. And in a large neighborhood or through hitting several  
14 neighborhoods, that may require some research, right?

15 A. Yes, unless you already know where you want to go.

16 Q. Sure. If you know exactly where you want to go, you  
17 don't have to do research?

18 A. Exactly.

19 Q. But frequently, you have to figure out exactly where do  
20 I need to go or where do I need to avoid, right?

21 A. With Get Smart, we knew where we needed to go.

22 Q. Okay.

23 MR. SHARMAN: May I approach, Your Honor?

24 THE COURT: You may.

25 (Defendant's Exhibit 658 was referenced.)

1 MR. SHARMAN: I'm going to hand to the government what  
2 has been marked as Defendant's Exhibit 658 and also provide  
3 it to the witness.

4 Q. Please take a look at that, Mr. Robinson, and let me  
5 know when you've had a chance to do that.

6 A. I've done so, sir.

7 Q. All right. And this is a document that's basically a  
8 spreadsheet about parcel ownership in Tarrant, right?

9 A. Correct.

10 Q. Who owns property in Tarrant, right?

11 A. Correct.

12 Q. Okay. And if you'll look at the bottom right, there's a  
13 little notation that says OR 0280. You see that down  
14 there?

15 A. Yes, sir.

16 Q. And you produced documents to the government in response  
17 to a subpoena, right?

18 A. Yes.

19 Q. All right. You recognize this as a document created by  
20 Get Smart to look at parcels?

21 A. Yes, sir.

22 MR. SHARMAN: All right. We'd move the admission of  
23 658, please.

24 MR. MARTIN: No objection.

25 THE COURT: Thank you. 658 is received and may be

1 published.

2 (Defendant's Exhibit 658 was admitted into evidence.)

3 Q. (BY MR. SHARMAN:) So just so we can understand what  
4 we're seeing, so at the top we see "Parcel Ownership  
5 Information, Tarrant, Alabama," right?

6 A. Yes, sir.

7 Q. Okay. So what that's telling us is this is a  
8 spreadsheet that's going to have some basic information  
9 about who owns residential parcels and where they are,  
10 right?

11 A. Yes, sir.

12 Q. And they need to know that because that's helpful in  
13 formulating an outreach plan about where we're going and  
14 who we're going to talk to, right?

15 A. Yes, if we know that that's the area that the EPA is  
16 going to focus on.

17 Q. So you want to have some sense of who lives at 931  
18 Pinson Valley Parkway, right?

19 A. Yes.

20 MR. MARTIN: Your Honor, this document has not been  
21 redacted.

22 THE COURT: All right. Before it comes in formally,  
23 let's redact.

24 MR. SHARMAN: We will, Your Honor.

25 THE COURT: Okay.



1 Q. (BY MR. SHARMAN:) And so all this is showing us is that  
2 Get Smart was looking for the owner's name, the location of  
3 the parcel, the address of the owner if it's different,  
4 right?

5 A. Yes.

6 Q. And that could happen because the owner might actually  
7 live somewhere else because it might be a rental property?

8 A. Correct.

9 Q. And then it also has a column for -- on the far right  
10 for "Sample I.D." Do you see that?

11 A. Yes.

12 Q. And that's a reference to if the information was known,  
13 the identification number of a soil sample that EPA may  
14 have taken at that spot, right?

15 A. Yes, sir.

16 Q. And based on your experience, how does one go about  
17 creating or finding the underlying information that went  
18 into a document like 658? Where do you go to get that?

19 A. You initially -- you would have to have someone, in this  
20 case, that would have access to the knowledge that the EPA  
21 first is going to focus on these residents.

22 Secondly, you can go -- I don't know how public it is or  
23 whether they would do that, but it would have to come from  
24 the tax assessor's office in order to get a listing of this  
25 kind.

1 Q. Okay. So somebody's got to go to the tax assessor's  
2 office, download or copy or get a printout of the data, and  
3 then use that to create a spreadsheet like this?

4 A. If it's -- if it's public information.

5 Q. And there came a time where, as part of the community  
6 outreach efforts, that Get Smart also sponsored a coat  
7 drive; is that right?

8 A. Yes, sir.

9 Q. And a coat drive is basically the collection of or  
10 purchase of winter coats, right?

11 A. Yes. Or the allowance of an individual to purchase a  
12 coat.

13 Q. Give them --

14 A. A certificate or gift card or such.

15 Q. And as part of the outreach program, Get Smart, under  
16 your daughter's direction, organized a coat drive, right?

17 A. Yes.

18 Q. And something like that helps get your message out  
19 because, in part, it enhances goodwill in the community,  
20 right?

21 A. Yes. And that was done as one of the responsibilities  
22 of Hezekiah Jackson, not Amanda Robinson.

23 Q. Okay. Well, Ms. Robinson --

24 A. Is the --

25 Q. -- was the --

1 A. -- executive director. So she --

2 Q. -- executive director. So, ultimately, she's  
3 supervising him, so to speak, right?

4 A. Yes. They worked together.

5 MR. SHARMAN: May I approach, Your Honor?

6 THE COURT: You may.

7 (Defendant's Exhibit 668 was referenced.)

8 MR. SHARMAN: I'm going to show to the government and  
9 provide to them what's been marked as Defendant's  
10 Exhibit 668 and also show to the witness, Mr. Robinson.

11 Q. Please take a look at 668 and let me know when you've  
12 had a chance to do so.

13 A. I have it.

14 Q. And you recognize 668 as being on Get Smart letterhead?

15 A. Yes, sir.

16 Q. And a letter from your daughter, Amanda Robinson?

17 A. Yes, sir.

18 Q. Concerning the coat drive?

19 A. Yes.

20 Q. And talking about the details of the coat drive?

21 A. Yes.

22 Q. And attaching a listing of the sponsors?

23 A. Yes, sir.

24 MR. SHARMAN: We move to admit Defendant's Exhibit 668,  
25 please.

1 MR. MARTIN: No objection.

2 THE COURT: Thank you. 668 is received and may be  
3 published.

4 (Defendant's Exhibit 668 was admitted into evidence.)

5 Q. (BY MR. SHARMAN:) All right. So this is a letter --  
6 this is basically a form letter, right?

7 A. Yes, sir.

8 Q. And it's addressed to parents in the area, right?

9 A. Yes. Who would be selected. Those that were selected.

10 Q. Right. There was a limited budget, limited number of  
11 people, right?

12 A. Right. Exactly. Exactly.

13 Q. And basically, Amanda Robinson is telling people that  
14 your child has been selected as a recipient of the coat  
15 drive, right?

16 A. Yes, sir.

17 MR. SHARMAN: And if you'll go down to the third  
18 paragraph, Sam.

19 Q. Amanda Robinson says "Please find enclosed a list of  
20 this year's sponsors as well as a gift certificate in the  
21 amount of \$50 to the Burlington Coat Factory." Do you see  
22 where I read that?

23 A. Yes, sir.

24 Q. And the Burlington Coat Factory, as its name implies,  
25 that's a coat store?

1 A. Yes.

2 Q. And then if you'll turn on the second page, these are  
3 the people that sponsored the coat drive, right?

4 A. Yes, sir.

5 Q. So we got Vulcan Materials, right?

6 A. Yes, sir.

7 Q. We got ABC Coke, right?

8 A. Yes, sir.

9 Q. Thompson Tractor?

10 A. Yes, sir.

11 Q. The NAACP?

12 A. Yes, sir.

13 Q. And the Birmingham Community Development Corporation,  
14 right?

15 A. Yes. And Get Smart.

16 Q. And Get Smart, it's right at the top, right?

17 A. Yes, sir.

18 Q. And, obviously, gift certificates for coats, that costs  
19 money?

20 A. Uh-huh.

21 Q. Is that right?

22 A. That's correct.

23 Q. And this coat drive happened, right?

24 A. Yes.

25 Q. Nothing false or fraudulent about that?

1 A. No, sir.

2 Q. Okay.

3 THE COURT: Let me give the jury their first morning  
4 break.

5 Ladies and gentlemen, 15 minutes. We're going to start  
6 back promptly. Please do not talk about the case during  
7 the break, and if you leave the jury room, please let me  
8 know if anyone approaches you at all about it. Karen will  
9 bring you in shortly before 10:40, so be ready, please.  
10 Thank you.

11 (The following proceedings were had in open court  
12 outside of the presence and hearing of the jury.)

13 THE COURT: Mr. Robinson, same drill as before. You  
14 may step down. You can't talk to anyone about your  
15 testimony.

16 Thanks, everyone. We are in recess for the next 15  
17 minutes.

18 (Recess.)

19 THE COURT: Folks, you can be seated. When the jury  
20 comes out, you'll stand at that point.

21 Mr. Sharman, just for planning purposes, I'm going to  
22 stop you at 5 till noon, which will be an hour and 15  
23 minutes from now.

24 MR. SHARMAN: That should be more than ample, Your  
25 Honor.

1 THE COURT: Obviously, I meant stop you for lunch, not  
2 stop your cross-exam.

3 MR. SHARMAN: That's the way I took it, Your Honor.

4 THE COURT: Okay. All right.

5 MR. SHARMAN: Always hopeful.

6 THE COURTROOM DEPUTY: They need a minute.

7 THE COURT: Okay. They need a minute. If anyone needs  
8 to sit down, you can.

9 (The following proceedings were had in open court in the  
10 presence and hearing of the jury.)

11 THE COURT: Thanks, everyone. Be seated, please.

12 Mr. Sharman, you may continue with your examination of  
13 Mr. Robinson.

14 MR. SHARMAN: Thank you, Your Honor.

15 Q. Mr. Robinson, as we established previously, the time  
16 period that the foundation and Get Smart were doing or  
17 engaged in this work was 2014, '15, and '16, right, those  
18 three years?

19 A. Get Smart actually started probably October of '15.

20 Q. But, obviously, as we've seen through emails, your  
21 involvement was --

22 A. Yes.

23 Q. -- earlier and later, right?

24 A. Exactly.

25 Q. And in the summer of 2015 you had a cell phone?

1 A. Yes.

2 Q. And your number, at least then, on your cell phone  
3 number was 205-266-~~XXXX~~; isn't that right?

4 A. Yes, sir. Yes, sir.

5 MR. SHARMAN: May I approach, Your Honor?

6 THE COURT: You may.

7 (Defendant's Exhibit 930A was referenced.)

8 MR. SHARMAN: I hand the government and show  
9 Mr. Robinson what has been marked as Defendant's  
10 Exhibit 930A, please.

11 Q. Mr. Robinson, take a look at 930A and let me know when  
12 you've had a chance to do so.

13 A. I'm familiar.

14 Q. You're familiar with it?

15 A. Yes.

16 Q. Okay. And did you, on June 10, 2015, receive a text  
17 message, kind of in the middle there?

18 A. Yes, several.

19 Q. Okay. Thank you.

20 And you received one that says "I think if we" --

21 MR. MARTIN: Objection. Hearsay.

22 MR. SHARMAN: Well, maybe -- all right. Well, we  
23 will -- Your Honor, we move in evidence Exhibit 930A,  
24 please.

25 THE COURT: Does the objection go beyond that,



1 Mr. Martin? In other words, you will still have the  
2 objection once the exhibit is in?

3 MR. MARTIN: We object to this exhibit as hearsay, Your  
4 Honor.

5 THE COURT: May I see it, please. Thank you.

6 MR. SHARMAN: He's adopted it and identified it as  
7 being his.

8 THE COURT: Thanks.

9 Why don't you move on, and I'll chat with you guys to  
10 fully understand the objection during the break, please.

11 MR. SHARMAN: And, Your Honor, just for the record,  
12 it's also not being offered for the truth of the matter  
13 asserted. It goes to his --

14 THE COURT: We'll take it up in due course. Thank you.

15 Q. (BY MR. SHARMAN:) All right. Mr. Robinson, you were a  
16 member of the Alabama House of Representatives?

17 A. Yes, sir.

18 Q. And you took an oath when you became a member, right?

19 A. Yes, sir.

20 Q. And that oath requires several things of a member,  
21 right?

22 A. Yes, sir.

23 Q. Requires you to uphold the United States Constitution?

24 A. Yes, sir.

25 Q. And requires you to uphold the Alabama Constitution?

1 A. Yes, sir.

2 Q. And as a state legislator, you could do -- you could do  
3 a variety of things in that position, right?

4 A. Yes, sir.

5 Q. You could propose legislation?

6 A. Yes, sir.

7 Q. You could vote on legislation?

8 A. Yes.

9 Q. Serve on committees?

10 A. Sure.

11 Q. Is that right?

12 A. Yes, sir.

13 Q. Now, you were a state legislator, right?

14 A. Yes, sir.

15 Q. You had no power to propose or enact or vote on federal  
16 law, right?

17 A. Correct.

18 Q. You could not force the federal government or a federal  
19 agency to do or not do something, right?

20 A. No.

21 Q. You had no influence over a federal agency's budget,  
22 right?

23 A. No, sir.

24 Q. Or their hiring or firing, right?

25 A. No, sir.

1 Q. Or how they felt they needed to discharge their duties;  
2 is that right?

3 A. No, sir.

4 Q. Now, the money that Balch & Bingham paid the Oliver  
5 Robinson Foundation under the contract, that money came  
6 from Balch & Bingham, right?

7 A. Correct.

8 Q. It wasn't State of Alabama money?

9 A. No, sir.

10 Q. It wasn't federal tax dollars, right?

11 A. No, sir.

12 Q. And then conversely, the money that you took out of the  
13 foundation, that wasn't State of Alabama dollars?

14 A. No, sir.

15 Q. And that wasn't federal dollars?

16 A. No, sir.

17 Q. And you served in the State House for almost -- little  
18 under 20 years, right?

19 A. Yes, sir.

20 Q. And from that service, you're generally familiar with  
21 the notion of what's called separation of powers, right?

22 A. Yes, sir.

23 Q. And separation of powers means that there are three  
24 departments or three branches of government, right?

25 A. Yes, sir.

1 Q. There's the legislative branch that you served in?

2 A. Uh-huh.

3 Q. Is that right?

4 A. Yes, sir.

5 Q. Then there's the executive branch, right?

6 A. Yes.

7 Q. That's the one headed by the governor; is that right?

8 A. That's correct.

9 Q. He or she is the chief executive officer of the state?

10 A. Yes.

11 Q. And then there's the judicial branch, right?

12 A. Yes, sir.

13 Q. That's the state's court system; is that right?

14 A. The Supreme Court, yes, sir.

15 Q. Okay. So all those three branches have their own powers  
16 and their own responsibilities, right?

17 A. Yes, sir.

18 Q. And in fact, based on your experience as a legislator,  
19 you know that the idea of separate powers, a separation of  
20 powers is actually in the Alabama Constitution, right?

21 A. Yes, sir.

22 Q. And what that means to you is that the legislature in  
23 Alabama can execute and exercise its powers, right?

24 A. Yes, sir.

25 Q. But it may not exercise the powers of the other two

1 branches?

2 MR. MARTIN: Objection. Relevance.

3 MR. SHARMAN: Goes to the vote. Goes to pressure.

4 THE COURT: Overruled for now.

5 Q. (BY MR. SHARMAN:) That's all it means. It means that  
6 the legislature can only exercise its powers, right?

7 A. Yes, sir.

8 Q. And conversely, the judicial branch can only exercise  
9 its powers --

10 A. Correct.

11 Q. -- right?

12 And the executive branch only exercises its powers,  
13 right?

14 A. Correct.

15 Q. That's why they're called separation of powers, right?

16 A. Yes, sir.

17 Q. All right. Mr. Robinson, you and Mr. Martin talked a  
18 little bit yesterday -- excuse me, Tuesday about a meeting  
19 you had with representatives of GASP. Do you remember that  
20 subject?

21 A. Yes.

22 Q. And my notes reflect that Mr. Martin asked you, "Did you  
23 meet with a representative of the group GASP?" And you  
24 responded, "Yes, I did meet with her. Yes, I did." Then  
25 Mr. Martin asked you, "How did that come about?" And you

1 said, "Made an attempt to speak to Dr. Stacie Propst, who  
2 was the executive director." Mr. Martin then asked you,  
3 "Did anyone ask you to do that?" And you responded, "No,  
4 sir." Do you remember that, those questions and those  
5 answers?

6 A. Yes, sir.

7 Q. And then my notes reflect that shortly after that,  
8 Mr. Martin asked you, "Did he know, did Mr. Gilbert know  
9 that you were meeting with GASP?" And you answered, "Yes,  
10 he did." And Mr. Martin then asked, "Was it your idea to  
11 meet with GASP or his?" And you responded, "It was  
12 conversation had about needing to get information from GASP  
13 with Mr. Gilbert. And so I would -- in essence, he asked  
14 to -- whether I could get with Ms. Propst, Dr. Propst."

15 So which is it, Mr. Robinson? Did Mr. Gilbert ask you  
16 to do that, or did no one ask you to set up the meeting?

17 A. It was both.

18 Q. Thank you. All right.

19 On the subject of GASP, you were interviewed by the FBI  
20 about GASP last summer, right?

21 A. Right.

22 Q. They raised that topic with you, right?

23 A. Yes.

24 Q. And Mr. Martin asked you about it on direct, right?

25 A. Right.

1 Q. And do you recall telling the FBI last summer that GASP  
2 was made up of people from Mountain Brook who did not care  
3 about the homeowners and were telling them that their homes  
4 would be purchased when that was not true; GASP was not  
5 there for the betterment of the area? Do you recall  
6 telling that to the FBI?

7 A. I don't recall saying "Mountain Brook," but if I stated  
8 it to them, yes, sir.

9 (Government's Exhibit 226 was referenced.)

10 MR. SHARMAN: All right. If we can look at  
11 Government's 226, Sam, please.

12 Q. I believe 226, Mr. Robinson, is a press release  
13 announcing your resignation from the legislature that you  
14 and Mr. Martin discussed yesterday. Do you remember --

15 A. Yes.

16 Q. -- talking with him about that?

17 A. Yes, sir.

18 Q. And the fourth paragraph down, the one beginning "My  
19 reason for retiring," do you see where that is?

20 A. Yes, sir.

21 Q. And essentially you're saying, "I'm retiring because my  
22 daughter is going to work for the governor's office, and I  
23 don't want there to be any conflict of interest or even  
24 questions about some kind of ethical issue like that,"  
25 right?

1 A. Yes, with my child.

2 Q. And the reason why you were resigning in November of  
3 2016 was because you knew you were under investigation at  
4 the time, right?

5 A. That's part of it.

6 Q. But you didn't mention that in the press release, did  
7 you?

8 A. No, sir.

9 MR. SHARMAN: Your Honor, I think we're back to the  
10 document that was objected to.

11 THE COURT: Are you telling me you're done with  
12 everything else on your outline?

13 MR. SHARMAN: Well, that may be a little more drastic  
14 than I meant, Judge. Give me a moment.

15 THE COURT: Let me see you and Mr. Martin up here.

16 Karen, may I get some white noise, please.

17 (At sidebar:)

18 THE COURT: What's the basis for the objection,  
19 Mr. Martin?

20 MR. MARTIN: Judge, the basis for the objection is  
21 hearsay. This is an out-of-court statement by John Powe,  
22 and so it's hearsay.

23 THE COURT: Okay. What's this document going to be  
24 used for, Mr. Sharman?

25 MR. SHARMAN: I want to demonstrate that he received



1     this email from Mr. Powe as part of what we referred to as  
2     part of our defense as the Viagra plan, Your Honor. I  
3     think there are several --

4           THE COURT: The what?

5           MR. SHARMAN: Remember in opening we referred to this  
6     as their plan to actually not do what they said they were  
7     doing. We believe, in other words, there was a conspiracy  
8     between Mr. Powe and Mr. Robinson, and this is in  
9     furtherance of it. Also, it's not hearsay, Your Honor,  
10    because it's not being offered for the truth of the matter  
11    asserted. In other words, we're not offering it for the  
12    purpose to show that they were going to become  
13    millionaires. It's what their intent and plan was.

14          THE COURT: Well, that may be a little bit semantics.  
15    You want to use this to show that they did not intend to do  
16    what they wanted to do. And then on the hearsay part of --  
17    you're focusing on a related area --

18          MR. SHARMAN: Part of our theory is that it is  
19    conspiracy -- uncharged, admittedly -- to do something  
20    wrong, so it's a statement in furtherance of conspiracy.  
21    But it is not hearsay because it's not being offered for  
22    the truth. I don't care if it's true or not.

23          MR. MARTIN: Judge, clearly --

24          THE COURT: No.

25          MR. ASBILL: I was going to --

1 THE COURT: It is Mr. Sharman's document. It's  
2 Mr. Sharman's document. He's the only one who can speak to  
3 it, please.

4 Mr. Martin?

5 MR. MARTIN: Judge, clearly the coconspirator exception  
6 to the hearsay rule does not apply based on a defense  
7 theory of a conspiracy unrelated to the one in the  
8 indictment.

9 THE COURT: I think you may be right.

10 MR. SHARMAN: It also goes to his state of mind, Judge.  
11 I'm sorry. But it also goes to his state of mind.

12 THE COURT: I'm not going to overrule this yet, and I'm  
13 not going to sustain it yet. Let me study it further, and  
14 I'll let you guys know --

15 MR. SHARMAN: Judge, would it help if I just asked him  
16 and -- without actually putting the piece of paper in  
17 evidence? I can do that if you want me -- well --

18 THE COURT: I think he objected to it when you started  
19 doing that.

20 Mr. Martin, would you waive it if he does what he says  
21 he wants to do?

22 MR. MARTIN: No, sir. I don't have any objection to  
23 what Mr. Robinson has already answered, and that is that he  
24 received this test.

25 MR. SHARMAN: The statement.

1 MR. MARTIN: I do object to the statement.

2 THE COURT: All right. Let me look at some cases  
3 during the lunch hour, and then I will let you know after  
4 lunch, please.

5 MR. ASBILL: Judge, it's in my outline, too.  
6 Regardless, I intend to introduce it independently. It  
7 does go to his state of mind in terms of the inference --

8 THE COURT: Thank you, Mr. Asbill. Gentlemen, thank  
9 you all.

10 MR. SHARMAN: Judge, if you give me a minute, I may be  
11 done. Just let me look --

12 THE COURT: I'm sorry. What was the last?

13 MR. SHARMAN: If you give me a minute, I may be done.

14 THE COURT: Okay.

15 (In open court:)

16 MR. SHARMAN: Court's indulgence for just a moment,  
17 please.

18 Your Honor, I have no further questions pending the  
19 Court's resolution of the text message issue.

20 THE COURT: Thank you.

21 Ladies and gentlemen, Mr. Sharman is passing this  
22 witness for now. He may come back up here once I give him  
23 a ruling on the exhibit that he tried to introduce, which  
24 is 930A.

25 Who is up next for now?

1 MR. ASBILL: I am.

2 THE COURT: Mr. Asbill, why don't you start. And then  
3 I'm assuming you need more than 45 minutes, correct?

4 MR. ASBILL: Yes, sir.

5 THE COURT: Okay. Good. I'll come back to 930A before  
6 you get to it as well.

7 MR. ASBILL: Your Honor, I need a moment to get set up.

8 CROSS-EXAMINATION BY MR. ASBILL:

9 Q. Good morning, sir.

10 A. Good morning.

11 Q. I represent this gentleman over here. You know him?

12 A. Yes, sir.

13 Q. Okay. You met with the government, you said, six times  
14 for interviews; is that right?

15 A. Yes, sir.

16 Q. And you know that Mr. Martin, the government's lead  
17 attorney, has the power to help you?

18 A. Yes, sir.

19 Q. To help you get a reduced sentence for your crimes?

20 A. Yes, sir.

21 Q. Is that correct?

22 A. Yes, sir.

23 Q. And the reason that you met with them six times was to  
24 benefit yourself; isn't that right?

25 A. Because they asked me to.

1 Q. And you were trying to benefit yourself. You didn't  
2 have to do that, did you?

3 A. Yes, sir, I did.

4 Q. You did?

5 A. Yes, sir. Every time they called, I had to come.

6 Q. You had to come in order to benefit yourself. You  
7 wanted to come; is that right?

8 A. I -- I didn't want to be involved in this at all, but my  
9 actions brought me here. So I do not -- did not want to  
10 meet with them any time at all other than when they  
11 requested.

12 Q. Okay. But you wanted to have a deal with them in which  
13 they would try to help you, correct?

14 A. Correct.

15 Q. All right. So regardless of whether you wanted to meet  
16 with them voluntarily or not, you agreed to a deal and you  
17 were required to meet with them, right?

18 A. Correct.

19 Q. Okay. And the idea of getting the deal was to benefit  
20 yourself, right?

21 A. Correct.

22 Q. Okay. You and I have never met?

23 A. No, sir.

24 Q. You've never met with any of my client's lawyers?

25 A. No, sir.

1 Q. You knew we wanted to interview you, right?

2 A. Yes, through my attorneys, I guess.

3 Q. You knew that. But you didn't agree, correct?

4 A. Through my attorneys.

5 Q. Well, however. But you got the message back to us you  
6 didn't agree to meet with us and be interviewed by us,  
7 correct?

8 A. Correct.

9 Q. And that's because we can't help you, right?

10 A. Because that was my attorneys's suggestion to me not to  
11 meet.

12 Q. I don't want to get into what you talked to your  
13 attorney about. I can't help you get a better sentence,  
14 correct?

15 A. No, sir.

16 Q. No, sir, that's correct or it is not correct?

17 A. That is correct.

18 Q. Okay. Prior to this trial, how much time did you spend  
19 with the government agents? Not with your attorneys  
20 separately, with the government team. How much time did  
21 you spend with them preparing for your testimony?

22 A. Not long at all.

23 Q. How much? You tell me.

24 A. Two hours. Two and a half hours.

25 Q. All right. And that's recently this week or last week?

1 A. Couple weeks ago.

2 Q. Okay. And they told you they wanted you to testify,  
3 correct?

4 A. Correct.

5 Q. All right. And obviously, that's part of your agreement  
6 with them, right?

7 A. Correct.

8 Q. And you're hoping that by your testimony that you will  
9 benefit yourself?

10 A. Correct.

11 MR. ASBILL: Judge, may I approach the easel for a  
12 second?

13 THE COURT: You may.

14 (Pause.)

15 Q. (BY MR. ASBILL:) I'd like to talk to you some -- you  
16 spent a lot of time talking about other folks in this case.  
17 I'd like to talk with you about yourself, okay?

18 A. Yes, sir.

19 Q. Two days ago you came into this courtroom and you raised  
20 your right hand, and you put your left hand on a Bible.

21 A. Yes, sir.

22 Q. And you swore to tell the truth?

23 A. Yes, sir. And I have.

24 Q. You took an oath, correct? Is that right, you took an  
25 oath?

1 A. Yes, sir.

2 Q. And that was a completely meaningless gesture, wasn't  
3 it?

4 A. No, sir.

5 Q. Well, you've lied under oath at least 20 times, haven't  
6 you?

7 A. No, sir.

8 Q. All right. Well, let's go through it.

9 (Defendant's Exhibits 30-35 were referenced.)

10 MR. ASBILL: I'd like to pull up DX 30 to 35. Why  
11 don't you take a look at that, either on the screen or in  
12 the paper documents in front of you. Can you see that?

13 A. No, sir, it's not on the screen.

14 Q. In the Redweld in front of you, would you look at  
15 documents DX 30 to 35? Tell me if you recognize them.

16 A. Yes.

17 Q. What are they?

18 A. They are tax returns for Robinson & Robinson  
19 Communications.

20 Q. From what years?

21 A. From 2010 to -- looks like 2010, 2011.

22 Q. Not through 2015? You don't see all of them in front of  
23 you?

24 A. 2010. 2010. 2010.

25 Q. For different entities or all for the same entity for



1 the same year?

2 A. And 2010. Same entity, Robinson & Robinson  
3 Communications.

4 Q. Robinson & Robinson. They're all for the same year?  
5 For 2010?

6 A. All from the same year.

7 Q. All right. Did you have any tax returns in front of you  
8 in that stack for Robinson & Robinson for 2011, '12, '13,  
9 '14, '15?

10 A. Yeah.

11 MR. ASBILL: Let me ask my assistant.

12 (Pause.)

13 A. That's '11, '12. All right. I have them.

14 Q. Okay. Are those tax returns that you filed on behalf of  
15 Robinson & Robinson Communications from 2010 to 2015?

16 A. Yes, sir.

17 (Defendant's Exhibits 36 to 41 were referenced.)

18 Q. Okay. I'd like to pull up DX 36 to 41, which has  
19 already been admitted.

20 MR. ASBILL: Would you pull those up, please, Sam?

21 Q. And would you scroll through those documents and tell me  
22 whether they are the Oliver Robinson Foundation federal tax  
23 returns from 2010 to 2015?

24 A. I'm confused.

25 Q. You're confused about --

1 A. The documents that you just -- that she just --

2 Q. No, no. The second set of documents.

3 A. Oh, the second set. All right.

4 Q. The Oliver Robinson Foundation tax returns.

5 A. All right.

6 Q. They're on the screen, sir, if it's easier for you.

7 A. That will be fine. That will be even better.

8 Q. Okay.

9 MR. ASBILL: Sam, would you scroll through those year  
10 by year? Let them stay up long enough for Mr. Robinson to  
11 take a look at them.

12 A. I'm familiar with them.

13 Q. Okay. You're familiar with those?

14 A. Yes, sir.

15 (Defendant's Exhibits 42 to 47 were referenced.)

16 Q. Also want to pull up next DX 42 to 47, and we'll show  
17 you those on the screen.

18 A. All right.

19 Q. You can look at those by yourself for a minute.

20 MR. MARTIN: Judge, those are not in evidence.

21 MR. ASBILL: I'm going to move them into evidence after  
22 he looks at them.

23 MR. MARTIN: Well, you published them.

24 MR. ASBILL: I didn't mean to publish them. I asked  
25 him to look at them by himself.

1 THE COURT: Obviously, documents that are not in yet  
2 will not be published. You may continue.

3 Q. (BY MR. ASBILL:) Just take a look at them by yourself,  
4 and tell me if you recognize them.

5 A. It was taken off the screen.

6 THE COURT: Do you have hard copies of them?

7 MR. ASBILL: Yeah, we have hard copies up here.

8 A. 47?

9 Q. Do you recognize those documents?

10 A. Yes, sir.

11 Q. And what are they?

12 A. Personal 1040.

13 (Defendant's Exhibit 3469 was referenced.)

14 Q. Okay. And would you take a look by yourself at DX 3469.  
15 Tell me if you recognize that.

16 A. Is it on the same 1040?

17 Q. No. These are personal state returns. Ask you whether  
18 you recognize those.

19 A. Can you put them up on the screen? Because it's --

20 MR. ASBILL: Can you assist? I can't put them on the  
21 screen yet.

22 THE COURT: These are Mr. Robinson's own tax returns?

23 MR. ASBILL: Own tax returns, yes, sir.

24 THE COURT: All right. Any objection to them coming  
25 into evidence?

1 MR. MARTIN: No, Your Honor.

2 THE COURT: What's the exhibit number?

3 MR. ASBILL: Judge, I move to enter DX 30 to 35, 42 to  
4 47, and 3469.

5 MR. MARTIN: No objections.

6 MR. ASBILL: All right. Now we can see them on the  
7 screen.

8 THE COURT: The exhibits are received and may be  
9 published.

10 (Defendant's Exhibits 30-35, 42-47, and 3469 were  
11 admitted into evidence.)

12 MR. ASBILL: Excuse me. Take that down for a second.  
13 I want to ask you another question.

14 Q. PFP, is that a separate corporation or organization?

15 A. Yes, it is.

16 Q. And are there separate tax returns each year for PFP as  
17 well?

18 A. Yes.

19 Q. And when you entered your plea agreement, you agreed  
20 that you committed tax evasion, federal tax evasion for the  
21 years 2011 through 2015, correct?

22 A. Yes.

23 Q. Is that right? You basically admitted that you  
24 committed tax fraud during those five years, correct?

25 A. Yes.

1 Q. All right. Let's talk about 2011. Let's pull up your  
2 personal return, DX 43.

3 MR. ASBILL: Sam, would you please pull that up?

4 Q. Okay. This is the personal return for you and your  
5 wife, Sakina Robinson; is that correct?

6 A. Yes. Yes.

7 Q. This was married, filing jointly?

8 A. Yes.

9 Q. Okay. And you signed that under oath; is that correct?

10 A. Yes, sir.

11 MR. ASBILL: Could you scroll down to that, Sam?

12 Q. You filed these electronically?

13 A. Yes, sir.

14 Q. All right.

15 MR. ASBILL: Part 3, Sam, could you scroll down to  
16 that?

17 Q. So you signed, "Under penalties of perjury, I declare  
18 that I have examined this return and the accompanying  
19 schedules and statements, and to the best of my knowledge  
20 and belief, they are true, correct, and complete."  
21 Correct?

22 A. Correct.

23 Q. And you signed?

24 A. Yes, sir.

25 Q. And you had your wife sign?

1 A. Yes, sir.

2 Q. And these returns were perjurious, weren't they?

3 A. They were not correct.

4 Q. Is that the same as perjury here under oath?

5 A. That -- they were not correct.

6 Q. Okay. And I take it that your wife did not know they  
7 were not correct?

8 A. She did not.

9 Q. But you had her sign anyway, right?

10 A. She signed.

11 Q. Now, the State of Alabama has similar language on it,  
12 each of its returns; is that right?

13 A. Yes, sir.

14 Q. Okay. And with respect to all your federal and all your  
15 state returns with your wife between 2011 and 2015, each  
16 and every one of them you signed under penalty of perjury  
17 that they were true, and that was not the case, right?

18 A. You're correct. You're correct.

19 Q. Okay. And you did that each year to benefit yourself,  
20 correct?

21 A. Yes, sir.

22 Q. And whatever money you didn't pay the State of Alabama  
23 or the federal government, you used on yourself, correct?

24 A. Yes.

25 Q. You had no concerns that other taxpayers might have had

1 to pay more because you paid less than you owed, right?

2 MR. MARTIN: Objection, Judge. Relevance.

3 THE COURT: Sustained.

4 Q. (BY MR. ASBILL:) Year after year, even with a year to  
5 think about the returns in between, you still perjured  
6 yourself on each of these returns every year, right?

7 A. Correct.

8 Q. No pangs of conscience in between?

9 A. Yes.

10 Q. But you still went forward and did it, right?

11 A. Yes.

12 Q. To benefit yourself, right?

13 A. Yes.

14 Q. It wasn't because you needed the money, right?

15 A. Correct.

16 Q. It was greed, pure and simple, wasn't it?

17 A. No, sir.

18 Q. Oh, it's not so simple? Then what was it?

19 A. It was the process of filling out the returns without  
20 having some 1099s. There was the process that I went  
21 through. But in the end, I was wrong in signing the forms  
22 with that income not on the tax return.

23 Q. Well, you're not saying you made a mistake here, are  
24 you?

25 A. No, sir.

1 Q. You wanted the money, and you didn't want to pay it to  
2 the government. That's simple, isn't it?

3 A. It's that simple to you, but it's not that simple.

4 Q. Okay.

5 MR. ASBILL: Sam, would you pull up DX 37, which is  
6 already in evidence?

7 Q. This is the 990 form filing for Oliver Robinson  
8 Foundation, right?

9 A. Yes, sir.

10 Q. It's a 2011 Form 990, correct?

11 A. Yes, sir.

12 Q. All right.

13 MR. ASBILL: At the top right-hand side of the form,  
14 Sam, would you highlight under "2011"?

15 Q. It says it's open to public inspection, each of these  
16 returns, right?

17 A. Yes, sir.

18 Q. And you knew that?

19 A. Yes, sir.

20 Q. So you knew it was available not only to the IRS but to  
21 anyone else who wanted to look on the website and pull it  
22 up, correct?

23 A. Yes, sir.

24 Q. And each of those returns for 2011 to 2015 you lied on;  
25 isn't that right?



1 A. Yes, sir.

2 Q. And it wasn't just a lie. It was a lie under oath. It  
3 was perjury, wasn't it?

4 A. Just like the 1040.

5 Q. And again, with respect to the foundation, you lied on  
6 these tax returns to benefit yourself so you could keep the  
7 money, right?

8 A. Correct.

9 Q. And year after year, you did it all over again, right?

10 A. Yes, sir.

11 Q. And year after year with respect to any returns on which  
12 your wife joined you, you put her at risk, right?

13 A. Yes, sir.

14 Q. You jeopardized her potentially, right?

15 A. Yes, sir.

16 Q. And you jeopardized the corporations that you ran in  
17 terms of their viability, right?

18 A. Yes, sir.

19 Q. Because the Oliver Robinson Foundation would not be  
20 getting any more contributions if the public knew that it  
21 was a fraud, a tax fraud, would it?

22 A. No, sir.

23 Q. 2013, same. 2014, same. 2015, same, with all of the  
24 corporations -- four corporations, right?

25 A. Yes, sir.

1 Q. You controlled four corporations, right? PFP, ORF,  
2 Robinson & Robinson, and what else?

3 A. Just those.

4 Q. Just those?

5 A. Yes, sir.

6 Q. Those three, plus your personal returns?

7 A. Yes, sir.

8 Q. Right? Okay. So every year on each tax return, you  
9 were responsible for allowing those returns. You lied.  
10 You perjured yourself on those returns?

11 A. I wasn't responsible for PFP.

12 Q. I'm sorry?

13 A. I say I wasn't responsible for Partnering for Progress.

14 Q. Who was?

15 A. John Powe.

16 Q. Well, did you agree with him that they should be filed  
17 and they should be lies?

18 A. No.

19 Q. Were there any lies in the PFP returns? Any  
20 underreporting?

21 A. Not to my knowledge.

22 MR. ASBILL: Now, pull up, Sam, again, DX 40. It's  
23 already in evidence. Let's look at page 2 of that return.

24 Q. And on page 2, you are listed as president; is that  
25 correct?

1 A. Yes, sir.

2 Q. All right.

3 MR. ASBILL: Can you highlight that area?

4 Q. And there is zero compensation listed for you?

5 A. Yes, sir.

6 Q. Correct?

7 A. Yes, sir.

8 Q. All right.

9 MR. ASBILL: Sam, will you pull up -- excuse me. On  
10 this page. Let's look at page 4, this same exhibit.

11 Q. That's where the statement under oath is; is that right?  
12 Same on all of these?

13 A. Yes, sir.

14 Q. But you did take money from the foundation, didn't you?

15 A. Yes, sir.

16 Q. And that was your decision?

17 A. Yes, sir.

18 Q. And it was your decision to keep it secret?

19 A. Yes, sir.

20 Q. From the government or anyone else, correct?

21 A. Yes, sir.

22 Q. Not only from the IRS but from the public, too, correct?  
23 Because these were all publicly held, right?

24 A. Yes.

25 Q. And you wanted to keep it secret from people who donated

1 to the foundation, right?

2 A. Yes, sir.

3 Q. And you wanted to keep it secret from your daughter whom  
4 you had work for the foundation, right?

5 A. That was not a concern.

6 Q. You didn't care if the foundation was doing something  
7 illegal and you had your daughter working for the same  
8 foundation?

9 A. Yes, sir.

10 Q. Yes, sir, you did care about that?

11 A. Yeah, I did care.

12 Q. Okay.

13 A. Yeah.

14 Q. And you kept it a secret on all these returns because  
15 you knew it was criminal, right?

16 A. Yes, sir.

17 Q. But you wanted the money, right?

18 A. Yes, sir.

19 Q. And again, this was greed, not need, wasn't it?

20 A. You could characterize it that way.

21 Q. How about you? How would you characterize it?

22 A. It was the process that -- that I was going through,  
23 that I was wrong in doing what I did.

24 Q. Did you spend the money on yourself that you didn't  
25 report?

1 A. I spent the money on many others. Family members and --  
2 well, you could say me. Yes, sir.

3 Q. You spent it for your own purposes for your own goals.

4 A. Yes.

5 Q. Is that correct?

6 A. Yes, sir.

7 Q. Now, when you got money from people who contributed to  
8 your campaign, you did that every year, or did you have to  
9 do it every year?

10 A. Had to do it every year.

11 Q. There's no public financing for elected officials in  
12 Alabama, right?

13 A. Say that again.

14 Q. There was no public financing for elected officials in  
15 Alabama?

16 A. No. No, sir.

17 Q. So you got to go out and you got to ask people for  
18 money. That's what all politicians have to do; is that  
19 correct?

20 A. Yes.

21 Q. Am I right?

22 A. You're right.

23 Q. All right. And when you go out to these folks, whether  
24 they're corporations or whether they're individuals,  
25 whether they're friends or people you don't know, you

1 basically tell them, if you give me the money, I am going  
2 to spend it on the campaign and not for any other purpose,  
3 correct?

4 A. You're correct. You're correct.

5 Q. Okay. And every corporation and every individual that  
6 you got campaign money from, you looked these people in the  
7 eye and you lied to them about what you were going to do  
8 with the money --

9 A. Correct.

10 Q. -- isn't that right?

11 A. Most of it.

12 Q. Most of it? What's not correct about it?

13 A. Of all the money that I received, I didn't spend all of  
14 the money that -- that I received. But I did spend some.  
15 You're correct.

16 Q. Okay. Some of it you spent on the campaign?

17 A. Yes, sir.

18 Q. Some of it you spent on yourself?

19 A. Yes, you're right.

20 Q. For whatever purposes you thought were important to you.

21 A. Yes.

22 Q. Is that correct?

23 A. Yes, sir.

24 Q. And when you took this money and used it as we've  
25 described and you spent it on your personal needs, did you

1 tell anybody else about what you were doing?

2 A. No, sir.

3 Q. So you kept that a secret from your family?

4 A. Yes, sir.

5 Q. And your closest friends?

6 A. Yes, sir.

7 Q. And everyone else?

8 A. Yes, sir.

9 Q. And with respect to the campaign contributions, personal  
10 stuff that you did, tell us about that. What did you spend  
11 it on?

12 A. It could have been anything. It could have been --

13 MR. MARTIN: Objection, Your Honor.

14 THE COURT: Sustained.

15 Q. (BY MR. ASBILL:) Did you spend it on luxury vacations?

16 MR. MARTIN: Objection.

17 THE COURT: Doesn't really matter how he spent it.

18 You've established the point, so I'll sustain the objection  
19 again.

20 Q. (BY MR. ASBILL:) You agree you spent approximately  
21 \$18,000 of campaign contributions on personal items or  
22 whatever unrelated to your campaign; is that correct?

23 A. Two campaigns. 2010 and 2014.

24 Q. Okay. A total of \$18,000 combined for those two  
25 campaigns, right?

1 A. Yes, sir.

2 Q. Okay. That wasn't accidental, was it?

3 A. Two was.

4 Q. I'm sorry?

5 A. Two entries were.

6 Q. Two entries were accidental?

7 A. Yes, they were.

8 Q. Out of the \$18,000?

9 A. Yes, sir.

10 Q. Okay. So how much was nonaccidental of the \$18,000?

11 A. Approximately \$15,000.

12 Q. Okay. So \$15,000 wasn't a mistake, but \$3,000 was;  
13 that's your testimony?

14 A. Yes, sir. That's my testimony.

15 Q. You knew that was illegal, right?

16 A. Yes, sir.

17 Q. You knew it was a felony, right?

18 A. Yes, sir.

19 Q. And you did it anyway?

20 A. Yes, sir.

21 Q. Now, at the time that you were not paying your taxes,  
22 2011 to 2015, you agree that you underreported over  
23 \$600,000 in income total, correct?

24 A. Yes.

25 Q. And so each time that you were doing this, basically, it



1 was easy for you to do this, wasn't it?

2 A. Never easy.

3 Q. But you did it anyway. It wasn't a hard decision for  
4 you to swallow, was it?

5 A. It was never easy.

6 Q. Now, Mr. Sharman talked to you about being a legislator  
7 and taking an oath of office. And that oath of office,  
8 you're familiar with it, aren't you?

9 A. Yes, sir.

10 Q. Tell us what the oath of office is for a legislator.

11 A. It's to make sure that you abide by the laws of the  
12 State of Alabama and its constitution.

13 Q. And that you provide honest services to the citizens of  
14 the State of Alabama?

15 A. Exactly.

16 Q. All right. And would you agree with me that when you  
17 don't pay your taxes to Alabama and when you don't pay your  
18 taxes to the federal government for you and your  
19 corporations, that you are not giving the citizens of  
20 Alabama your honest services?

21 A. I agree.

22 Q. The bank accounts that you controlled, how many  
23 different bank accounts did you control during this  
24 timeframe we're talking about, 2011 to 2015?

25 A. Three.

1 Q. And they were for what?

2 A. For Robinson & Robinson, the foundation, and jointly  
3 with Mr. Powe with Partnering for Progress, as well --

4 Q. Okay -- I'm sorry. I didn't mean to interrupt.

5 A. And personal.

6 Q. And personal. So that would be four different bank  
7 accounts?

8 A. Yes.

9 Q. In what banks?

10 A. Regions Bank.

11 Q. All in Regions Bank?

12 A. Yes, sir.

13 Q. Okay. So those are -- during that timeframe, those are  
14 the only four accounts that you controlled; is that  
15 correct?

16 A. No, I had others. I had -- for personal. I had  
17 something at -- at Wells Fargo and at BBVA Compass.

18 Q. I'm sorry. I didn't understand that.

19 A. BBVA Compass.

20 Q. Compass Bank?

21 A. Yes.

22 Q. Okay. So you're saying you had six accounts?

23 A. Yes. Total.

24 Q. If I told you that you -- that your financial records  
25 that have been produced to us by the government showed 11

1 different checking accounts, would that surprise you?

2 A. It wouldn't surprise me because some of them I did not  
3 use that often, and the ones that I referred to were those  
4 that I went to often because I opened some and did not --  
5 did not utilize them.

6 Q. Okay. You utilized --

7 A. So you could say 11. It could be 11.

8 Q. Okay. And during this timeframe, you were moving money  
9 from bank account to bank account at your direction  
10 whenever you wanted; is that right?

11 A. Yes. Yes, sir.

12 Q. Would you agree with me that your financial banking  
13 transactions are complicated and there's a whole web of  
14 transactions between the various banks you had accounts in?

15 A. I don't think it was complicated, but I did move money  
16 from one account to the other.

17 Q. Okay. And not only did you move money from one bank  
18 account to the other, but you, also, from these bank  
19 accounts, withdrew cash, correct?

20 A. Correct.

21 Q. \$300,000 in cash? Is that --

22 A. I can't confirm or deny that.

23 Q. From 2010 to 2016, approximately \$300,000 in cash from  
24 ORF, Partnering for Progress, and for personal reasons from  
25 your accounts. Do you dispute that?

1 A. If that's the information you have, I won't dispute it.

2 Q. And you'd take money from the foundation and from  
3 Partnering for Progress to pay your personal credit card  
4 bills, right?

5 A. Yes, that's a part of it.

6 Q. And that was to benefit yourself, right?

7 A. Correct.

8 Q. And you charged between 2010 and 2016 approximately  
9 \$1.1 million to your American Express card and your Chase  
10 Visa cards, right?

11 A. Yes, and that -- the bulk of that was for the  
12 conferences that we were having with Partnering for  
13 Progress and other activities and events, including the  
14 Black Achievers Awards Gala and other events. So that's --  
15 that could easily be a number.

16 Q. So the bulk of that, \$773,000 out of the \$1.1 million,  
17 was for those purposes that you've just described; is that  
18 correct?

19 A. Correct.

20 Q. And the rest was for you?

21 A. Correct.

22 Q. Right? And you didn't have any separate card for your  
23 business, separate credit card for your businesses, right?

24 A. Other than the American Express.

25 Q. You only used that for business?

1     **A.** I used it for personal. I didn't have -- if your  
2     question was did I have one solely for business, no.

3     **Q.** The answer is no. So you used credit cards both for  
4     business and for personal expenses, right?

5     **A.** Correct.

6     **Q.** And every time the statements came in each month, I take  
7     it you went through those statements and you annotated,  
8     basically, and said this is personal, this is business, and  
9     you looked for the corroboration for the business expenses?

10    **A.** Yes, sir.

11    **Q.** You did. And you gave those all to your accountants  
12    every time you had a tax return filed?

13    **A.** No, sir, I added all of those up and gave him the  
14    number.

15    **Q.** And you gave them the number?

16    **A.** Yes, sir.

17    **Q.** And the numbers you gave him were short?

18    **A.** Yes, sir.

19    **Q.** And have you given all of those records that you kept,  
20    those month-by-month or year-by-year records, have you  
21    given all of those to the government?

22    **A.** I gave the government everything I had.

23    **Q.** You gave the government everything you had. Didn't they  
24    ask you -- didn't they give you some homework and ask you  
25    to go back and really fine-tune this analysis and try to

1 figure out exactly what was business and what was personal?

2 A. We haven't completed that task.

3 Q. A year after you've entered the plea, you haven't  
4 completed that task?

5 A. No, sir. My attorney, tax attorney has been ill, and  
6 we've been working on it the best we could.

7 Q. You were also obligated by your plea agreement to  
8 provide to the probation office a complete statement,  
9 financial statement, net worth statement, right? And that  
10 was supposed to be done immediately, right?

11 A. We're working on that now with the probation office.

12 Q. Still working on that too?

13 A. Yes, sir.

14 Q. Your accountant has been sick, your tax accountant has  
15 been sick for a year?

16 A. The accountant -- we didn't need him for that  
17 information. I just got that information, so I'm putting  
18 that together.

19 Q. Okay. And do you have any ETA for us about when that's  
20 going to be complete?

21 A. As soon as my testimony is complete, I will complete it.

22 Q. So it will be completed before your August sentencing,  
23 right?

24 A. It will be.

25 Q. But not before this trial, right?

1 A. That was not something that -- that I -- you know, it  
2 was put on me to do.

3 Q. Before all this started, before you started with your  
4 taxes, et cetera, you had an excellent reputation, didn't  
5 you?

6 A. It was pretty good.

7 Q. Just fair, or do you think it was really good?

8 A. I think it was pretty good.

9 Q. Okay. People knew you and liked you, thought you were  
10 friendly?

11 A. They still do.

12 Q. And that you were involved in the community?

13 A. Still am.

14 Q. And concerned about the community?

15 A. I am.

16 Q. And they thought you were law abiding?

17 A. They did.

18 Q. And they thought you were honest?

19 A. They did.

20 Q. Okay. And you'd never been convicted of any crimes,  
21 right?

22 A. No, sir.

23 Q. And in your 18 years as a legislator, you've never been  
24 charged with any ethics violations, right?

25 A. No, sir.

1 Q. So if we called your colleagues in the legislature and  
2 asked them what they thought about you before you entered a  
3 guilty plea, they'd have said good things about you, right?

4 A. Most of them.

5 Q. Well, the ones that wouldn't say good things about you,  
6 would they be attacking your character?

7 A. No, sir.

8 Q. And prior to this case, you received, as Jack Sharman  
9 has pointed out, very significant support from the business  
10 community, right?

11 A. Yes, sir.

12 Q. And I'm not going to go through the chart of the  
13 corporations, et cetera, that he's put up before. And  
14 those folks sponsored the gala that you talked about?

15 A. Yes, sir.

16 Q. And the -- before this all started, the people that  
17 voted for you, they would say good things about you, too,  
18 wouldn't they?

19 A. Yes, sir, and they still will.

20 Q. All right. But those people didn't know what you were  
21 really up to; isn't that right?

22 A. No, they did not.

23 Q. Okay.

24 A. Financially.

25 Q. So you fooled the people, some of whom were the people



1     that knew you best, correct?

2     A.   I didn't fool them because they didn't know.

3     Q.   Well, you didn't fool your family?  You didn't fool your  
4     wife?

5     A.   Yes.

6     Q.   Those people that know you best, right?

7     A.   Yes.  I thought you were talking about constituents.  
8     None of them knew.

9     Q.   All these people that you fooled, all the people all the  
10    time, you fooled about what you were really up to in terms  
11    of your own criminal behavior, right?

12    A.   Yes, sir.

13    Q.   Now, Mr. Sharman has talked to you about your role as a  
14    part-time legislator.  That's \$44,700, whatever it is, a  
15    year, is that correct?

16    A.   Yes.

17    Q.   Three months in session, et cetera.  And you're allowed  
18    to have other jobs, right?

19    A.   Yes, sir.

20    Q.   And basically everybody in the legislature, unless  
21    they're independently wealthy, does that; isn't that  
22    correct?

23    A.   Yes.

24    Q.   All right.  And the foundation had previously done  
25    community outreach work for other entities; is that

1 correct? Other corporations?

2 A. Yes, sir.

3 Q. You talked about AmSouth, things for Regions Bank,  
4 et cetera; is that correct?

5 A. Yes. That was through Robinson & Robinson. That wasn't  
6 through the foundation.

7 Q. Okay. And you had a consulting contract with AECOM and  
8 Strada, SE+C, to do community outreach relating to the  
9 Birmingham airport; is that correct?

10 A. That's right.

11 Q. That was the expansion at the airport?

12 A. Yes, sir. No, no, it was the 20-year review of the  
13 airport and future expansion.

14 Q. And future expansion. And that future expansion, I take  
15 it, would have impacted in some way the Tarrant community?

16 A. Yes, it would have.

17 Q. How would it have impacted Tarrant?

18 A. Land use.

19 Q. What do you mean?

20 A. If it were to expand, the area of Tarrant would have  
21 been affected because of the expansion of property that  
22 would have been needed by the airport in order to expand.

23 Q. Okay. So the purpose of the outreach program that I'm  
24 talking about now was to talk to the people in the local  
25 community and get their opinions about this?

1     A.   Yes, sir.

2     Q.   Is that right?

3     A.   Yes, sir.

4     Q.   The area around the airport?

5     A.   Yes.

6     Q.   And that contract, as I think somebody has pointed out,  
7    had a confidentiality provision; is that right?

8     A.   I don't think we've talked about that one.

9     Q.   I'm sorry?  You don't think they did?

10    A.   No, sir.

11    Q.   Now, when Balch hired the foundation to perform  
12   community outreach in 2014, you had already done this kind  
13   of work before, the foundation had already done this kind  
14   of work before.  That's what I'm trying to establish; is  
15   that correct?

16    A.   As it relates to the airport work?

17    Q.   Well, just in general, you had done -- the foundation  
18   had done community outreach work before, correct?

19    A.   Yes.

20    Q.   Okay.  I want to ask you about your memory.  Do you  
21   think you have a good memory?

22    A.   Not most of the time, but I do the best I can with what  
23   I got.

24    Q.   Are there any physical or other reasons why your memory  
25   might be impaired?

1     **A.** I can't answer that question. I don't -- I'm not sure  
2     of how to answer that one.

3     **Q.** Well, nothing you're aware of specifically that would  
4     adversely impact your memory; is that correct?

5     **A.** Nothing but time.

6     **Q.** Okay. You talked about recording conversations. Is  
7     that something that you frequently did?

8     **A.** No, sir.

9     **Q.** You know it's illegal in Alabama for one party to record  
10    a conversation, right?

11    **A.** I know now.

12    **Q.** You didn't know when you were doing it?

13    **A.** Not really.

14    **Q.** So you thought it might be illegal, but you did it  
15    anyway?

16    **A.** No, sir. I did it without thinking that it was illegal.

17    **Q.** But it was not to help you remember what occurred in the  
18    conversation because you didn't think you could keep it in  
19    your head?

20    **A.** Exactly. I did that for that reason. I wanted to make  
21    sure the information that was stated got back to the people  
22    who wanted it.

23    **Q.** Okay. Do you recall meeting with the government on  
24    June 14 of this year, just a few weeks ago?

25    **A.** Yes, sir.

1 Q. And do you recall at the time of that meeting telling  
2 the FBI agents that you had known my client, David, for  
3 five years?

4 A. Since 2011 when he was -- he was hired on by Drummond  
5 Company.

6 Q. You didn't know in 1998 and going forward that he was a  
7 lobbyist who was down in Montgomery on a regular basis  
8 during legislative sessions?

9 A. I -- with the number of lobbyists that are down there,  
10 that is highly possible.

11 Q. But you don't ever recall seeing him before 2011?

12 A. But I didn't have a relationship with him.

13 Q. I'm not talking about --

14 A. I mean seeing him? I can't -- I can't say.

15 Q. Never talked to him about anything?

16 A. Not that I can remember.

17 Q. All right. The two of you -- you're not close friends,  
18 right?

19 A. No, sir.

20 Q. Professional acquaintances?

21 A. Yes, sir.

22 Q. You don't know his family and vice versa. You don't  
23 take vacations together or anything like that?

24 A. No, sir.

25 Q. You don't share details about your private life with

1 each other; is that right?

2 A. Sometimes. About our families we did.

3 Q. Sometimes you'd talk about your families?

4 A. Our families, yes, we did.

5 Q. But basically you met him because he was a legislator  
6 and you were a lobbyist -- excuse me. You were a  
7 legislator and he was a lobbyist, right?

8 A. Correct.

9 Q. Okay. But your interaction was basically professional;  
10 is that correct?

11 A. Correct.

12 Q. And as you say, there are a lot of lobbyists in  
13 Montgomery, and they often approach legislators and talk  
14 with them about issues they're concerned about, right?

15 A. All the time.

16 Q. Okay. And there's nothing wrong with that, is there?

17 A. No, sir.

18 Q. All right. And you talked about a meeting in the summer  
19 of 2014 that you had with my client at Billy's Tavern,  
20 right?

21 A. Yes.

22 Q. And you can't date that precisely, can you?

23 A. No, sir.

24 Q. I mean --

25 A. No, sir. No, sir.

1 Q. You don't have, like, a credit card receipt or some  
2 other entry in business records that would date that in any  
3 way, right?

4 A. No, but he would.

5 Q. How would he know it?

6 A. Because he paid for it.

7 Q. With cash or with a credit card?

8 A. With a credit card.

9 Q. Okay. And this was a modest lunch, I take it, at  
10 Billy's Tavern?

11 A. Yes, yes, just a hamburger, cheeseburger for me and  
12 fries.

13 Q. Okay. During that discussion, he was talking to you  
14 about his interest or his company's interest in the 35th  
15 Avenue site and this whole Superfund issue, right?

16 A. Yeah, that's the first time that it ever came up that I  
17 can remember.

18 Q. And he told you that Drummond was interested in this  
19 issue, right?

20 A. Right.

21 Q. Okay. And he didn't offer you anything at that meeting,  
22 did he?

23 A. No, sir.

24 Q. That was just standard lobbying, wasn't it?

25 A. Standard. Standard lobbying.

1 Q. All right. And the time when you say things changed was  
2 in late November 2014, right?

3 A. Yes, sir.

4 Q. Okay. And this was a meeting that you say occurred  
5 between you and Joel and David in late 2014; is that  
6 correct?

7 A. That's correct.

8 Q. And that was at Balch?

9 A. Yes, sir.

10 Q. And prior to that, you had never met Joel Gilbert?

11 A. Not to my knowledge.

12 Q. All right. So he was a complete stranger to you, right?

13 A. Exactly.

14 Q. And are you saying at that meeting, you entered into  
15 some kind of agreement with them to be bribed?

16 A. I'm saying at that meeting, we talked about the process  
17 by which they needed help --

18 Q. Okay.

19 A. -- with the EPA and with going into Inglenook and to  
20 Tarrant and also about the other issues of Councillor  
21 Parker, needing to find a candidate to run against him.  
22 Those are the things that I can remember. There may have  
23 been more.

24 Q. Well, my simple question to you is at that meeting, did  
25 they bribe you to use your legislative role to do anything?



1 A. No. That, in my opinion, came later.

2 Q. How much later? When?

3 A. As we start discussing what it was that was needed as it  
4 relates to going into North Birmingham and effectively  
5 dealing with the EPA.

6 Q. So give me -- when did the conspiracy begin that you're  
7 talking about? What day was it?

8 A. In my opinion, it started that day.

9 Q. Started which day?

10 A. The day that we initially met.

11 Q. In late November at Balch?

12 A. Yes, sir.

13 Q. Okay. And I take it at that meeting, there was a lot of  
14 discussion about -- let's not put down anything in writing?  
15 Did that occur?

16 A. Well, there was nothing in writing.

17 Q. Well, I'm talking about going forward.

18 A. Oh, no, no, no, no, no. No, that --

19 Q. That never happened, did it?

20 A. No, sir.

21 Q. And nobody ever said anything like, you know, "Don't  
22 call me on the phone, make any phone records available to  
23 anybody"? That never happened either, did it?

24 A. That would have been too obvious.

25 Q. Right. Too obvious?

1 A. Yes.

2 Q. Talking about trying to agree with somebody to commit a  
3 crime?

4 A. That would have been too obvious.

5 Q. That would have been too obvious, right?

6 A. Yes, sir.

7 Q. So it was solo; is that what you're trying to say?

8 A. There's no doubt about it.

9 Q. Nobody ever talked about, "Joel, let's not have any  
10 billing entries in the records about the crime we're  
11 committing," right?

12 A. We was just having meetings, and I'm sure that they were  
13 billing Drummond.

14 Q. Okay. But nobody ever said in the meeting with the  
15 three of you --

16 A. No, sir.

17 Q. -- "Let's not record the fact that the three of us are  
18 meeting"?

19 A. No, that's how conspiracies begin.

20 Q. All right. And nobody ever said, "Don't tell Drummond  
21 about anything" or "Don't tell Balch & Bingham about  
22 anything either," right? That never happened?

23 A. No. Not to me.

24 Q. Nobody ever said, "Don't update -- David, don't update  
25 your bosses at Drummond about what's really going on here,"

1 right?

2 A. No, sir, not to me.

3 Q. Nobody ever said, "Don't tell the Drummond accounting  
4 people or the billing people there who are making payments  
5 about what's really going on," right?

6 A. Not to me.

7 Q. Okay. And on November 25, you submitted a proposal for  
8 this community outreach to Joel Gilbert at Balch & Bingham,  
9 right?

10 A. Yes.

11 Q. And that was the initial contract that you put on  
12 Robinson & Robinson stationery, right?

13 A. Exactly.

14 (Government's Exhibit 6 was referenced.)

15 MR. ASBILL: Sam, would you please pull up GX 6? It's  
16 in evidence. Go to the second page.

17 Q. This was the original proposal we're talking about?

18 A. Yes, that's the original cover letter.

19 Q. Okay.

20 MR. ASBILL: Go down to the last full paragraph on the  
21 cover letter, please.

22 Q. All right. And you talk here in this proposal,  
23 basically, to work for a minimum of 12 and up to 18 months  
24 for ten grand monthly, right?

25 A. Yes, sir.

1 Q. And that's exclusive of expenses?

2 A. Yes, sir.

3 Q. Right?

4 A. Yes, sir.

5 Q. Okay. And you wrote this letter and you signed this  
6 letter?

7 A. Yes, sir.

8 Q. Right? And neither Joel or David had anything to do  
9 with writing that letter?

10 A. No, sir.

11 Q. Every word in it is yours, correct?

12 A. Yes, sir.

13 Q. All right.

14 MR. ASBILL: Go to the second page of the letter, and  
15 highlight the "Public Involvement Program" section, Sam,  
16 please.

17 Q. And in this description of what the work is going to  
18 entail basically, you talk about "a continuous process  
19 involving educational, listening, and collaborative  
20 components," correct?

21 A. Correct.

22 Q. All right.

23 MR. ASBILL: Go down to the last sentence, Sam.

24 Q. And in the last sentence of that paragraph, you talk  
25 about "In addition, the needs and sensitivities of

1 low-income populations will be considered," right?

2 A. Considered. Yes, sir.

3 Q. Okay.

4 MR. ASBILL: Drop down to the next paragraph, Sam,  
5 third line.

6 Q. And you write "There is a need to play catchup in  
7 disseminating information to the neighborhoods,  
8 organizations, and churches in the designated areas."

9 A. Correct.

10 Q. Right? Because other folks on the other side of this  
11 were already out there.

12 A. Yes.

13 Q. Right? Okay.

14 MR. ASBILL: Go down to the next paragraph, Sam.

15 Q. In the "Objective" paragraph here, objective of this,  
16 establishing a public involvement program -- that's what  
17 PIP means, right?

18 A. Correct.

19 Q. -- for educating, collaborating, and ascertaining  
20 feedback on how organizations, individuals, et cetera, are  
21 informed in the process, and to make them aware of the  
22 negative effects of a Superfund or being listed on the NPL,  
23 what those effects would be on their property; is that  
24 right?

25 A. That's correct.

1 Q. Okay. So you're going to help educate folks in these  
2 neighborhoods basically about the financial impacts of the  
3 EPA's proposals or potential actions, is that correct?

4 A. Yes.

5 MR. ASBILL: Go to the next page, Sam.

6 Q. And I won't get into the details of this, but there is a  
7 section at the top, "Technical Advisors," a description of  
8 that kind of work, right?

9 A. Yes.

10 MR. ASBILL: Drop down to the next section, Sam,  
11 please.

12 Q. "Citizens Advisory Committee." And you talk about that?

13 A. Yes, sir.

14 MR. ASBILL: Drop down to the next section.

15 Q. "Resident Interviews and Small Group Meetings." Talk  
16 about doing that kind of work, right?

17 A. Yes.

18 Q. Is that correct?

19 A. Yes, sir.

20 MR. ASBILL: Drop down to the final paragraph, Sam,  
21 please.

22 Q. And you're talking about development of a website and  
23 e-blast listings; is that correct?

24 A. Yes.

25 Q. Okay.

1 MR. ASBILL: Sam, please go to the next page.

2 Q. There's a section about doing newsletters?

3 A. Yes, sir.

4 Q. Drop down. A section about public meetings?

5 A. Yes, sir.

6 Q. And a section about deliverables?

7 A. Yes.

8 Q. Every one of these four pages, every word was written by  
9 you, not by anybody else; is that correct?

10 A. Yes, yes.

11 Q. And the scope of work that you proposed was extensive?

12 A. Yes.

13 Q. And certainly worth \$10,000 a month?

14 A. In addition.

15 Q. In addition to what?

16 A. In addition to the monies that will be needed to  
17 actually pull off the deliverables that I have on there.

18 Q. Okay.

19 A. The \$10,000 wasn't -- you understand that the \$10,000  
20 wasn't for everything that you've just gone through.

21 Q. I understand. And you correct me if I'm wrong. You  
22 said robocalls alone cost more than \$7,000, right?

23 A. Yes. At least.

24 Q. So I'm talking about \$10,000 a month for the foundation  
25 to do this work, not counting expenses. Expenses to the

1 side. \$10,000 was not a lot of money for the scope of the  
2 work the foundation was going to do exclusive of expenses?

3 A. Exactly.

4 Q. Is that right?

5 A. Yes.

6 Q. Okay.

7 THE COURT: Mr. Asbill, let me stop here for the  
8 morning please.

9 Members of the jury, I'm going to give you your lunch  
10 break now. We're going to start back at 15 after 1:00  
11 today. Please get some fresh air, stretch your legs, get  
12 some caffeine in you. Don't talk about the case during the  
13 lunch break, and please don't expose yourselves to any  
14 coverage about this case. Thank you all. We are in recess  
15 until 1:15, please.

16 (The following proceedings were had in open court  
17 outside of the presence and hearing of the jury.)

18 THE COURT: Mr. Robinson, you may step down, sir. Same  
19 drill. I'm going to keep everyone else in the courtroom  
20 for two to three minutes to give the jury a chance to exit  
21 the floor, please.

22 For Mr. Sharman, Mr. Asbill, let me make sure I  
23 understand. 930A, these are messages that Mr. Robinson  
24 received, not messages that he sent? Or is he -- I'm  
25 trying to understand how to read this. The first one is to



1 Aaron Harris. Is Mr. Robinson the one that sent that  
2 message?

3 MR. ASBILL: Judge, I'm only interested in the middle  
4 message.

5 THE COURT: These are messages that he received?

6 MR. ASBILL: Right.

7 THE COURT: And not messages that he sent?

8 MR. ASBILL: Correct.

9 MR. SHARMAN: Yes, sir.

10 THE COURT: Okay.

11 MR. SHARMAN: And he acknowledged that it was his  
12 number and that he had that number at the time of the text  
13 message.

14 THE COURT: Understand all of that. Just wanted to  
15 make sure. Who is the author of the text messages?

16 MR. ASBILL: John Powe, I believe.

17 THE COURT: And he's on your witness list?

18 MR. SHARMAN: Yes.

19 MR. ASBILL: Yes.

20 MR. SHARMAN: Yes, sir.

21 THE COURT: Okay. Why can't the messages come in  
22 through him and not through this witness?

23 MR. SHARMAN: Because this is relevant admissible  
24 evidence, Your Honor. It is not hearsay because it's not  
25 being offered for the truth of the matter asserted --

1 THE COURT: Again, you're not answering my question.  
2 My question is why is Mr. Powe not the best source to bring  
3 this testimony --

4 MR. SHARMAN: He could be a source, Your Honor, but the  
5 defense does not have an obligation to put on a case when  
6 there's a witness and there's admissible evidence available  
7 in the government's case.

8 THE COURT: I'm not sure they're admissible through  
9 this witness, but as I promised you guys, I will look at  
10 them through the lunch hour. I'll give you my answer after  
11 I get back with the background information that I have.

12 Thanks, everyone. 1:15, please.

13 (Lunch recess.)

14 THE COURT: Be seated, please.

15 MR. BLOOMSTON: Your Honor, may we take up a brief  
16 issue before the jurors are brought in, please?

17 THE COURT: You may, but give me a minute, please.

18 As to the exhibit coming in, I will sustain the  
19 government's objection. I don't believe that this  
20 document, which was authored by someone besides this  
21 witness, is the best way to get into the witness' state of  
22 mind.

23 The defense has the right to inquire with this witness  
24 about what conversations, if any, he had with this  
25 individual here, Mr. Powe, on this particular topic.

1           And so I guess Mr. Sharman's request earlier, which the  
2           government objected to, I think on hearsay grounds as well,  
3           as to that objection, I'll overrule it. I think the  
4           defense has every right to go into this witness' state of  
5           mind with respect to these issues. The document itself  
6           will not come in because, again, as I focused in on it  
7           before the lunch break, he was a recipient and not  
8           necessarily the author of the comments that were being  
9           made.

10          Mr. Bloomston, you want to be heard on something?

11          MR. BLOOMSTON: Yes, Your Honor, briefly.

12          We called to the courtroom deputy's attention during  
13          Mr. Asbill's cross-examination of the witness that there  
14          was a juror that was apparently sleeping. He has been  
15          observed to have been sleeping throughout portions of the  
16          trial to the point where it's been brought to our  
17          attention. But even in social media, he has been referred  
18          to as "Sleepy, The Juror." And at this time, with this  
19          particular juror having slept through a portion of the  
20          trial, we would move that he be struck from the jury.

21          THE COURT: Mr. Martin, do you have a response?

22          MR. MARTIN: Judge, we would ask for some time to  
23          address that issue --

24          THE COURT: Okay.

25          MR. MARTIN: -- to look at the law and address the

1 issue.

2 THE COURT: Yeah. If we start dismissing jurors  
3 because they doze off, I'm not sure if any civil case -- I  
4 know it's a different case, obviously -- will have jurors.  
5 Some of the testimony that's been going on has been on the  
6 mundane side.

7 I don't know if the juror's been asleep throughout the  
8 entire trial or not. But for now, let me give the  
9 government a chance to respond but also give me an  
10 opportunity to observe as well and see if --

11 MR. BLOOMSTON: Yes, Your Honor. And with permission  
12 of the Court, we'll provide some research on that as well.

13 THE COURT: Thank you.

14 MR. BLOOMSTON: Thank you, Judge.

15 THE COURT: So the record is clear, what juror number  
16 is it?

17 MR. BLOOMSTON: 25.

18 THE COURT: Thank you.

19 Now let's bring in the jurors, please.

20 That was Exhibit 930A.

21 It may take a while for them to get situated. If you  
22 want to sit, you are free to do so.

23 (The following proceedings were had in open court in the  
24 presence and hearing of the jury.)

25 THE COURT: Be seated, everyone. Good afternoon,

1 everyone.

2 Members of the jury, I'm going to sound like a broken  
3 record throughout this trial, but this is an important case  
4 to all parties involved. It's a case where a lot is being  
5 demanded of you. It's a case where, at the end, you will  
6 have to make a decision based on all of the evidence, both  
7 testimonial and documents that have come in. It's  
8 extremely important for you to pay attention.

9 I decided on Tuesday to move up the break periods to  
10 try to keep you as freshly focused as possible. Consistent  
11 with that, we've been going an hour and 15 minutes before a  
12 break. I can reduce it to one hour if you want. Think  
13 about that and talk about that as a group the next break,  
14 which will be at 2:35. Let me know if you want to stop  
15 every hour for 10 minutes or if an hour and 15 minutes with  
16 a 15-minute break is better and will work for you.

17 We're going to continue now with the cross-exam of  
18 Mr. Robinson by Mr. Asbill, please.

19 If anyone needs caffeine, obviously, as you know, you  
20 can bring it into the jury box. And, likewise, if anyone  
21 needs a break before I call the break, just let me know as  
22 well.

23 Thanks, everyone.

24 Mr. Asbill, your witness.

25 MR. ASBILL: Thank you, sir.

1 Q. Good afternoon, Mr. Robinson.

2 A. Good afternoon.

3 Q. I want to go back to something I asked you about at the  
4 beginning, this morning, in my cross-examination of you,  
5 and I don't want you to tell me anything at all about what  
6 your attorney said to you, but I do want to ask you how  
7 much time you have spent with your attorneys preparing to  
8 testify in this case. Just the amount of time.

9 MR. MARTIN: Objection. Relevance.

10 THE COURT: I'll give Mr. Asbill some leeway, so  
11 overruled.

12 Q. (BY MR. ASBILL:) You can answer the question.

13 A. About 12 hours.

14 Q. Okay.

15 (Government's Exhibit 16 was referenced.)

16 MR. ASBILL: Now, I want to again pull up or pull up,  
17 please, GX 16, which has been admitted. Highlight that,  
18 please, just the bullet text.

19 Q. This is a December 11 email to you, correct -- or from  
20 you, excuse me --

21 A. Yes.

22 Q. -- to Joel Gilbert?

23 A. Yes.

24 Q. And this is where you talk about robocalls, as you've  
25 discussed before?

1 A. Yes, sir.

2 Q. Okay. And you've got a company that can print and mail  
3 information, et cetera.

4 A. Yeah, a company outside of mine.

5 Q. Right. And this is where you say at the bottom line "It  
6 was decided." That's you, right?

7 A. Yes, sir. Yes.

8 Q. Is that just you? You didn't say "I decided." You say  
9 "It was decided." Is that suggesting that somebody else  
10 and you decided to switch from Robinson & Robinson to --

11 A. In discussions with John Powe.

12 Q. Okay. And so would it be fair -- would I be accurate in  
13 saying that the two of you decided that that would be a  
14 good idea to switch it to the foundation?

15 A. Yes.

16 Q. Okay. And with respect to switching it to the  
17 foundation, that's because the foundation was a logical  
18 vehicle for doing community outreach?

19 A. No, it was a logical vehicle to do the outreach because  
20 we thought that at some point in time that we may be in the  
21 position with the corporations that we were assisting to be  
22 in a position to -- if there was ever a settlement, to be  
23 in the right position.

24 Q. All right. Let me get into that a little bit more with  
25 you. When did this discussion with Mr. Powe occur about

1 the settlement fund administrator role?

2 A. That came before the email.

3 Q. Okay. I mean, how did it go -- it went back into --

4 A. No, it went back into probably the summer, July.

5 Q. All right.

6 A. June, July.

7 Q. So let me see if I understand this. You and Mr. Powe

8 outside, obviously, the presence of my client and

9 Mr. Gilbert, in the summer of 2014, you all talked about --

10 A. Not the summer of 20-- 2015. Let me get my year

11 right. This is as it related to the 2014, we discussed

12 this, and we're in '14 on this email --

13 Q. Right.

14 A. Let me get that right as far as my time. We discussed

15 that before I submitted that to Joel.

16 Q. Okay.

17 A. Yes, sir. Right before.

18 Q. And I don't mean to interrupt you. Go ahead.

19 A. That's right. No, that was right before, couple of

20 weeks before. Once -- once we -- I was communicated with

21 from Joel and David, which was on the previous to -- I'm

22 sorry. Prior to the December 11 --

23 Q. Right.

24 A. -- spoke with John about the EPA and such, and that's

25 when he informed me that that's the way that it occurred in



1 Spartanburg, South Carolina, that a foundation came in and  
2 the foundations were involved from that perspective.

3 Q. Okay.

4 A. So, yes.

5 Q. So let me see if I can -- and please correct me if I'm  
6 mistaken, but let me see if I'm right in terms of the time.  
7 Sometime before the meeting with my client and with Joel  
8 Gilbert at Balch, at the very end of November 2014, roughly  
9 the 25th of November, that's when you --

10 A. Yeah, with the contract.

11 Q. That's when you had the meeting, right?

12 A. The contract.

13 Q. Right, that's when you had the meeting about the  
14 contract. You talked about the contract at Balch at the  
15 very end of November 2014, correct?

16 A. Yes.

17 Q. Okay. Before that meeting --

18 A. Yes. Yes.

19 Q. -- so sometime earlier in November of 2014 --

20 A. Yes, exactly.

21 Q. -- you and Mr. Powe talked about possibly becoming  
22 settlement fund administrators?

23 A. That's right. Because initially, it was going to be  
24 done through Robinson & Robinson Communications.

25 Q. Right.

1 A. Exactly. And so from there, that's when the  
2 conversation started with Mr. Powe and I after I submitted  
3 the contract on Robinson & Robinson Communications  
4 letterhead.

5 Q. Okay. So that discussion with Mr. Powe, whatever  
6 occurred in that discussion, that's not something that you  
7 ever shared with these two gentlemen --

8 A. No.

9 Q. -- that are on trial?

10 A. No, sir.

11 Q. Never?

12 A. No, sir.

13 Q. All right. And the plan or the idea that you and  
14 Mr. Powe talked about together --

15 A. Yes, uh-huh.

16 Q. -- was, you know, maybe we can become the settlement  
17 fund -- if there is a settlement --

18 A. If there is a settlement.

19 Q. Let's take it one step at a time. If there is a  
20 settlement or if companies are forced to pay money through  
21 litigation to do what EPA wants, right?

22 A. Yes.

23 Q. Then there's this pot of money of some amount, correct?

24 A. Yes.

25 Q. And somebody has got to distribute that money to the

1 individuals who were harmed.

2 A. Yes.

3 Q. Is that correct?

4 A. Yes, sir.

5 Q. Is that correct?

6 A. That's correct.

7 Q. Okay. And so somebody has to individually determine  
8 that this person was harmed to the tune of \$10,000 and this  
9 person was harmed to the tune of \$20,000 or whatever.  
10 Somebody has got to make those individual calls about the  
11 claims that people are going to be making against the fund,  
12 right?

13 A. No, that would probably be done by the EPA.

14 Q. Okay. But somebody's got to administer this whole  
15 thing?

16 A. Administer the fund, yes.

17 Q. And you understood, in your discussions with Mr. Powe --

18 A. Yes.

19 Q. -- that if the foundation, if the Oliver Robinson  
20 Foundation was the administrator of the settlement, that  
21 that was a very lucrative position?

22 A. Yes.

23 Q. Correct?

24 A. Yes, sir.

25 Q. And you felt that that was a multi-million-dollar

1 opportunity potentially if a settlement ever occurred,  
2 right?

3 A. If it ever occurred.

4 Q. All right. So that's the pot of gold at the end of the  
5 rainbow for you and Mr. Powe? That was the plan?

6 A. That was a plan.

7 Q. That was a plan?

8 A. But I didn't -- I didn't know whether that would happen  
9 or not. I didn't know enough about the EPA and the  
10 settlements, but that was what I was informed of.

11 Q. So that was a hope?

12 A. That was a hope.

13 Q. It was a hope that might not come to fruition?

14 A. Exactly.

15 Q. Okay. And you were saying that for that opportunity or  
16 potential opportunity, you were willing to be bribed and  
17 sell out your community? Is that what you're telling us?

18 A. I was bribed and I sold out my community.

19 Q. And you say -- you weren't doing that for seven grand a  
20 month that you had to give to other people for doing work,  
21 right?

22 A. That -- that portion of it, as far as the \$7,000 was  
23 concerned, had very little to do with Mr. Powe.

24 Q. I'm not saying it did have anything to do with Mr. Powe.  
25 I'm saying if that's the only money that the foundation

1 receives --

2 A. Uh-huh.

3 Q. -- because of the contract with Balch & Bingham?

4 A. Yes, sir.

5 Q. You know, and most of that money, by the way, has got to  
6 be given to people who do the work?

7 A. There was --

8 Q. Right?

9 A. There was no work initially in the process because the  
10 work that we received was directed by Mr. Gilbert, each  
11 directive was given by him as it related to the contract.

12 Q. Well, I mean --

13 A. We were saying in the contract what we could do.

14 Q. Well, there was work done in the beginning of the year,  
15 in the beginning of 2015 --

16 A. Yes.

17 Q. -- in terms of the --

18 A. The 93, yes.

19 Q. -- of getting, you know, 70 or 93 letters or whatever  
20 from people in the community, right?

21 A. Yes. And I paid for that.

22 Q. Okay. So what I'm saying is that, in terms of what you  
23 might have been taking out of the foundation --

24 A. Right.

25 Q. -- for the contract --

1 A. Right.

2 Q. -- whatever that amount may be that you're taking out  
3 and not reporting to the IRS --

4 A. Right.

5 Q. -- that wasn't a sufficient amount of money to make you  
6 sell out your community, was it?

7 A. Yes, it was.

8 Q. Oh, it was. So you're willing to sell out your  
9 community for a couple of thousand bucks? That's what  
10 you're telling us?

11 A. I did.

12 Q. It wasn't about the pot of gold at the end of the day --

13 A. No, sir.

14 Q. -- if you became the settlement administrator?

15 A. No, sir. We couldn't see it. We couldn't see the pot  
16 of gold.

17 Q. Okay. So you were so desperate for money that you're  
18 saying you sold out the people in your community and  
19 everything that you had worked for for your life, for your  
20 adult life, for this chump change? That's what you're  
21 telling us?

22 A. Now that I look back on it, I sure did.

23 Q. Now, with respect to these letters that were filed, you  
24 know, you've seen various versions of those letters, like  
25 one, two, three version, right?

1 A. Yes, sir. Yes, sir.

2 Q. Okay. And these letters -- and each version was  
3 similar --

4 A. Yes.

5 Q. -- sort of similar? Slightly different. And these were  
6 ones that people that worked for the foundation went around  
7 and got residents to sign, right?

8 A. Yes, sir.

9 Q. Okay. And these people apparently -- so nobody forged  
10 those signatures, did they?

11 A. No, sir, not to my knowledge.

12 Q. Okay. And these were submitted in a filing that Balch &  
13 Bingham gave to the EPA?

14 A. I assume they were.

15 Q. All right. So that would be publicly available, right?

16 A. Yes.

17 Q. Okay. So the fact that they're all similar would be  
18 publicly known, right?

19 A. Yes. Sure.

20 Q. Okay. And there's nothing wrong with them being similar  
21 if, in fact, the person who signs it believes what the  
22 letter says, correct?

23 A. I guess.

24 Q. Well, I mean, you tell me. You think it's wrong if they  
25 sign a letter that somebody else has written if it reflects

1 their views and their opinions?

2 A. I will agree with you there.

3 Q. Okay. Now, the folks who did some work in the community  
4 for the foundation, this is John Powe, right, that's one?

5 A. Yes.

6 Q. Amanda Robinson, your daughter?

7 A. Yes.

8 Q. Tina Bennett --

9 A. Yes.

10 Q. -- is she another?

11 And who else did some work in the community? Anyone  
12 else?

13 A. There were a couple of other people. And Hezekiah  
14 Jackson.

15 Q. Hezekiah Jackson. Okay. And were there others? Can  
16 you name them?

17 A. No. John got additional people to do work going  
18 door-to-door. So it was a number of people.

19 Q. Okay. And would it be accurate for me to say that all  
20 the people that were doing that work deserved to be paid  
21 for their work?

22 A. Yes, sir.

23 Q. And that they all worked hard for the money they earned  
24 in doing that work?

25 A. Yes, sir. Yes, sir.



1 Q. Okay. In fact, they earned it; they earned the money  
2 they were paid. Isn't that fair?

3 A. Yes. Yes, sir.

4 Q. All right.

5 MR. ASBILL: Sam, please pull back up the 2015 --  
6 excuse me -- DX 41 and highlight the portion that describes  
7 the mission of the Oliver Robinson Foundation.

8 Q. All right. This summary of the mission of the  
9 foundation, "The organization's mission or most significant  
10 activities." Right there. You see that?

11 A. Yes, sir.

12 Q. Okay. And this is the same one, every one of these ORF  
13 foundation returns, right?

14 A. Yes, sir.

15 Q. And so it says "The foundation's mission, primary  
16 mission, is to teach and promote financial responsibility  
17 to lower-income families and individuals," correct?

18 A. Correct.

19 Q. And that is what it was about, right? That's what the  
20 foundation was supposed to be about?

21 A. Yes, sir.

22 Q. Okay. "Financial responsibility to lower-income  
23 families and individuals."

24 Now, in terms of going around in the community and  
25 educating people about the potential financial impact of

1    what the EPA's plans are and making sure they understood,  
2    you know, there's maybe two sides to the story, if the  
3    corporation thought, "Well, maybe these people need to know  
4    that if they think they're getting money immediately,  
5    that's not going to happen. If they think their taxes are  
6    going to go down right way, that's not going to happen."  
7    There are a number of other sort of financial impacts that  
8    people may be misunderstanding about becoming a Superfund  
9    site, right?

10   A. Yes.

11   Q. Okay. So I take it that you would agree with me that it  
12   would be financially responsible for folks that might be  
13   impacted by what the EPA's plans were to understand what  
14   the real financial implications might be?

15   A. Don't disagree at all.

16   Q. All right. And let me talk about this Get Smart  
17   Tarrant. That's the name of the campaign, right?

18   A. Correct.

19   Q. And under no -- and who came up with that name? Was  
20   that Amanda Robinson, your daughter?

21   A. Mr. Powe. Mr. Powe.

22   Q. Oh, Mr. Powe. Okay. And is that trying to suggest in  
23   any way that the people in Tarrant are not smart?

24   A. No, just get smarter.

25   Q. Okay, get smarter?

1 A. Yes.

2 Q. Okay. And there is zero doubt in your mind, I take it,  
3 that the people in Tarrant are plenty smart enough, if  
4 they're given the facts on both sides of an issue, to make  
5 up their own mind about what's best for them and their  
6 families, right?

7 A. No doubt.

8 Q. No doubt?

9 A. No doubt.

10 Q. No doubt about that. And if you've got a balance -- if  
11 you're in that situation and you've got to balance, well,  
12 maybe there's a health risk, on the one hand, and maybe  
13 there's an economic risk, on the other hand, but somebody's  
14 got to make that call, got to make that choice for  
15 themselves and their family, they deserve to know the truth  
16 about the health issues and the truth about the financial  
17 issues?

18 A. Don't disagree.

19 Q. And this is something that fit right into the wheelhouse  
20 of Oliver Robinson Foundation?

21 A. Yes, sir.

22 Q. Okay.

23 (Defendant's Exhibit 667 was referenced.)

24 MR. ASBILL: Sam, would you please pull up DX 667,  
25 already in evidence?

1 Q. You recognize this document?

2 A. Yes, sir.

3 Q. Okay. And this is the Get Smart Tarrant fact sheet  
4 essentially?

5 A. Yes, sir.

6 Q. All right. And with respect to the things that folks  
7 were being told, and this is -- this is certainly some of  
8 the corporations' views of things. Do you disagree that  
9 any of this is legitimate or is false or a lie?

10 A. No, I don't disagree.

11 Q. Okay. And --

12 You can take that down.

13 And the other side of this debate, basically, they were  
14 out there doing their thing, et cetera, at the same time;  
15 is that right? The EPA, GASP people, they were out there  
16 doing the same things?

17 A. Yes.

18 Q. On their side of the story?

19 A. Yes.

20 Q. It's moving fast; is that right?

21 A. Yes, sir.

22 Q. Okay. But the point of this community outreach program  
23 led by the foundation was never to hurt any person in that  
24 Tarrant community, was it?

25 A. No, sir.

1 Q. Now -- and you certainly would never ask your daughter,  
2 who is a -- had she graduated from law school by this time,  
3 or was she just about to?

4 A. She did. And when Get Smart got started, she passed the  
5 bar.

6 Q. She passed the bar?

7 A. Yes, sir.

8 Q. So she was a licensed lawyer at that time?

9 A. Yes, sir.

10 Q. And there's no possible way you're ever going to send  
11 her out there to lie to people in the community or do  
12 anything dishonest; is that right?

13 A. Not after October.

14 Q. All right. Now, going back to the time you started  
15 cooperating with the government, do you recall when the  
16 first meeting was that you met with the government?

17 A. Early '17.

18 Q. Early 2017. January or February? You tell me.

19 A. May have been February.

20 Q. Okay. And in that first meeting, you went in and you  
21 met with the government agents and the prosecutors, right?

22 A. Yes, sir.

23 Q. Okay. And you had counsel, right?

24 A. Yes, sir.

25 Q. And did you know what they wanted to talk about when you

1     went in there, when you first went in?

2     A.   No, sir.

3     Q.   In fact, you thought it was not something to do with  
4     this -- this matter that we're here today on, is it?  You  
5     thought it had something to do with some other issue?

6     A.   Actually, I thought it was about this issue.

7     Q.   Okay.

8     A.   I didn't think it was about anything else.

9     Q.   Okay.  You didn't think it was about your taxes, right?

10    A.   No.

11    Q.   Okay.  And early on in the meeting, you got confronted  
12    about your taxes?

13    A.   Yes, sir.

14    Q.   Okay.  And that was a surprise to you, that the  
15    government had investigated you and thought that there were  
16    some problems with the way you handled your taxes, correct?

17    A.   I didn't think that that would come up, but nothing  
18    surprised me.

19    Q.   All right.  So it came up, basically, and at some point  
20    during that first meeting, you know, you take a break.  You  
21    said, "Wait a minute.  Time-out."  You go off with your  
22    attorney for about a half hour, right?

23    A.   Yes.

24    Q.   Okay.

25    A.   My attorney said time-out.  I didn't say time-out.

1 Q. Well, we said, "Take a break." You know, it basically  
2 is, "We got to take a time-out here," right?

3 A. Yes.

4 Q. Okay. And the two of you talked?

5 A. Yes.

6 Q. All right. And then you come back in and at some point  
7 they go on -- the government goes on more and more about  
8 your taxes, right?

9 A. Sure. Yes, sir.

10 Q. And whether things were legitimate business expense  
11 deductions, et cetera, things of that nature, correct?

12 A. Yes, sir.

13 Q. And then at some point, in that first interview, you  
14 break down?

15 A. Yes, sir.

16 Q. Okay. And from that point forward -- and by the way,  
17 you understood that you didn't have any defenses to the tax  
18 problems, right?

19 A. Yes, sir.

20 Q. And from that point forward, you knew that you were  
21 going to reach a deal with the government, right?

22 A. I didn't know whether I was going to reach a deal with  
23 the government.

24 Q. Well, you knew that if you couldn't defend yourself  
25 successfully, it was in all likelihood that you were going

1 to try to get a deal and the best deal that you could get,  
2 correct?

3 A. I was going to talk to my attorney about it.

4 Q. Okay. Well, I'm just asking you, in your own mind --

5 A. Yeah, yeah.

6 Q. -- did you figure, what, "Look, I got no way out of the  
7 tax problems. I got to cut some kind of deal with these  
8 folks"?

9 A. I didn't think that at that time, no, sir.

10 Q. All right. The next meeting, you came back again  
11 voluntarily, right?

12 A. Yes, sir.

13 Q. Okay. Well, if you were going to fight the tax charges  
14 or fight for anything basically, you wouldn't be going in  
15 talking to the government and answering all their  
16 questions, right? Because you didn't have to do that?

17 A. No, sir.

18 Q. Okay. You could say, you know, "These meetings are  
19 over. I got no more interest in talking to you at all."  
20 Now, you could have said that, right?

21 A. Yeah, could have said that.

22 Q. All right. But the reason you kept going back the  
23 second time and the third time is because you don't know  
24 what the ultimate terms are going to be, but you do know  
25 that you're going to strike a deal because there isn't any



1 other choice, right?

2 A. Correct.

3 Q. Now, by the time of May of 2017, you had had three  
4 meetings already with the government --

5 A. Yes, sir.

6 Q. -- right? And, you know, you're on your way to this  
7 deal. Whatever the final terms of the deal are, those  
8 remain to be negotiated. But the idea of a deal or no  
9 deal, that's off the table, right?

10 A. Can you say that, again?

11 Q. Yeah. You know you've got to reach -- in order to help  
12 yourself and try to benefit yourself in terms of getting a  
13 better sentence if you're going to be prosecuted for your  
14 tax crimes, you know you've got to reach a deal with the  
15 government, right?

16 A. Yes, sir.

17 Q. Okay. So -- and as I said, in fairness to you, and I  
18 know your attorney is negotiating on your behalf and, you  
19 know, whether it's plead to one count or three counts or  
20 this much money or that much money or whatever, those are  
21 terms that still had to be negotiated, but the idea of deal  
22 or not, that ship had sailed, right?

23 A. Yes.

24 Q. So in May of 2017, on May 11, to be exact, you  
25 voluntarily agree to an interview on National Public Radio

1 with a woman named Gigi Douban. Do you recall that?

2 A. I recall.

3 Q. And nobody made you do that, right?

4 A. No.

5 Q. And nobody over here put you up to doing that, right?

6 A. No. My attorney was livid.

7 Q. Livid. Your attorney was furious with you for doing  
8 that?

9 A. Yes.

10 Q. That's what you're telling me?

11 A. Yes, sir.

12 Q. All right. And Ms. Douban questioned you about there's  
13 been word out about the government investigation, Balch &  
14 Bingham, ORF, community outreach, that was the subject  
15 matter of the discussion between you and Ms. Douban, right?

16 A. Correct.

17 Q. Okay. And she had heard that maybe there's something  
18 wrong here, basically, and she wanted to ask you about it,  
19 correct?

20 A. Correct.

21 Q. All right. And in that interview, you told her that  
22 this was only about educating folks in Tarrant and  
23 Inglenook, right?

24 A. Get Smart. Yes.

25 Q. Yeah. And you told them -- you told her that this was

1 about telling those folks that they weren't going to get  
2 any more money if the area was brought up into a Superfund,  
3 right?

4 A. Yep. Get Smart.

5 Q. The whole Get Smart message is what you told her?

6 A. Exactly.

7 Q. All right. And you told her that's what this contract  
8 was between Balch & Bingham and the Oliver Robinson  
9 Foundation, correct?

10 A. Correct.

11 Q. Okay. And it was going to take 15 to 30 years,  
12 et cetera, to clean up everything and et cetera, et cetera?

13 A. Yes, sir.

14 Q. And all of that you believed was true?

15 A. Yes, sir.

16 Q. And with respect to the investigation into whether this  
17 contract was legitimate or not, you told Ms. Douban that  
18 you knew you were right, "But I'm in a meat grinder." You  
19 told her that, didn't you?

20 A. Yeah, I was right about the Get Smart part, yes.

21 Q. Yeah, you knew you were right -- well, you didn't tell  
22 her, "I was right about Get Smart," but really --

23 A. That I was right, yeah -- no, I didn't tell her that.

24 Q. You told her this was legitimate.

25 I'm sorry. I didn't mean to talk over you.

1 A. No, no, no, no, no. I wouldn't say that to her on the  
2 radio, that it was a fraud.

3 Q. Right.

4 A. It was not for me to say.

5 Q. Right. But you said this investigation, with respect to  
6 the investigation --

7 A. Uh-huh.

8 Q. -- you said, "I know I'm right" or "I did something  
9 right," right?

10 A. I did something right, yes.

11 Q. And, "I'm in a meat grinder"?

12 A. Yes.

13 Q. Right. And who was cranking the handle of the meat  
14 grinder?

15 A. GASP.

16 Q. GASP?

17 A. Yes, sir.

18 Q. Not the prosecutors?

19 A. GASP.

20 Q. Okay. And you say your attorney was furious with you  
21 for this interview?

22 A. Yes, sir.

23 Q. Okay. Now, you know that the ultimate contract between  
24 Balch & Bingham and the foundation did not have my client  
25 sign it, right?

1 A. No, we did not. We did not.

2 Q. Okay. And you don't know whether or not anybody at  
3 Drummond, including my client, ever saw the contract, the  
4 ultimate contract between -- the consulting contract  
5 between Balch & Bingham and the Oliver Robinson Foundation,  
6 right?

7 A. No, sir.

8 Q. You do not know, I take it, what representations Balch &  
9 Bingham or Joel Gilbert made to top executives at Drummond  
10 about the project?

11 A. No, sir.

12 Q. You don't have any knowledge whether or not Mr. Gilbert  
13 told folks at Balch & Bingham, general counsel, chief  
14 executive officer, et cetera, that this contract was legal  
15 and was ethical?

16 MR. MARTIN: Objection.

17 THE COURT: I'm sorry. What's the --

18 MR. MARTIN: The question is based on hearsay.

19 MR. ASBILL: I said, "You don't know whether or not."

20 MR. MARTIN: And then you said what somebody said.

21 THE COURT: All right. Rephrase the question.

22 Q. (BY MR. ASBILL:) Do you know whether anybody, that any  
23 lawyer from Balch & Bingham ever made any representations  
24 to executives above my client at Drummond about the  
25 legitimacy of the contract?

1 A. No, sir.

2 Q. Do you know whether or not anybody at Balch & Bingham  
3 ever made any representations going forward after the  
4 contract was signed about, well, maybe it was legitimate to  
5 start, but now it's no longer legitimate?

6 A. No, sir, I have no information on that.

7 Q. Okay. Now, let me move on to -- see if I can eliminate  
8 some things that Mr. Sharman has covered.

9 The appearance before the AEMC, I want to talk to you  
10 about that topic for just a second.

11 A. All right.

12 (Government's Exhibit 42 was referenced.)

13 MR. ASBILL: And let's pull up GX 42. It's already  
14 admitted. And can you highlight the bottom part here, Sam?

15 Q. All right. This is an internal letter Joel Gilbert  
16 writes or an email Joel writes to Irving Jones.

17 A. It's from Jones.

18 Q. Right. Excuse me. From Jones.

19 "I've attached a copy of the letter we discussed." And  
20 go forward, go up from there. That's to you, right? I  
21 mean, he attaches a letter and sends it to you, correct?  
22 Isn't that what the bottom email said? "Mr. Robinson, I've  
23 attached a copy of the letter we discussed"?

24 A. Right. Yes.

25 Q. "For your review"?

1 A. Yes.

2 Q. "If you want me to make edits, tell me."

3 A. Right.

4 Q. Okay.

5 A. Right.

6 MR. ASBILL: Go up to the next one Sam, please.

7 Q. And this is an email from Gilbert?

8 A. Mr. Gilbert.

9 Q. Also to my client, basically, right?

10 A. Yes. Yes.

11 Q. And he says that -- Joel says he's met with you and  
12 you're going submit this letter requesting an opportunity  
13 to speak, correct?

14 A. Correct.

15 Q. And you want to think about the politics of it?

16 A. Yes.

17 Q. And Joel says he told you that you can always withdraw  
18 the request if you decide not to do it?

19 A. Yes.

20 Q. Right?

21 A. Do you have a follow-up email to that? Because there  
22 was more to the discussion.

23 Q. Well, there may be.

24 A. All right.

25 Q. But at this point, what I'm asking you about is that he

1 tells you that if you don't want to send the letter, you  
2 don't have to?

3 A. Right.

4 Q. Okay. That's all I'm wanting -- that's all I want to  
5 understand, make sure I clearly understand.

6 A. All right.

7 Q. Okay.

8 MR. ASBILL: Go to GX 43, please. And the top email,  
9 please.

10 Q. Okay. This is from Joel to you, right?

11 A. Yes. Yes.

12 Q. And he says "Thanks for meeting on such short notice.  
13 Hope it was not too much of an imposition," right?

14 A. Right.

15 Q. You know, "Thanks again. We can talk regarding your  
16 thoughts on providing comments."

17 MR. ASBILL: And highlight that paragraph, please, Sam.  
18 Okay. The whole paragraph, please.

19 Q. Okay. "Appreciate your meeting with us on such short  
20 notice. Hope it wasn't too much of an imposition." We're  
21 going to -- you know, "We ask that you send us a copy of  
22 the letter once it's been submitted for our records,"  
23 right?

24 A. Right.

25 Q. "Thanks again. We can talk the first of next week



1 regarding your thoughts on providing comments. As  
2 discussed, you can always withdraw the request if needed.  
3 Have a great weekend." Right?

4 A. Right.

5 Q. Okay. Don't want to impose on you. You know, whatever  
6 your thoughts are, they are. You want to withdraw it, you  
7 withdraw it. Nobody's telling you you must do anything;  
8 isn't that right?

9 A. In this email it's not, but...

10 Q. Is there an email that says "You must do something" --

11 A. No.

12 Q. -- "because we've bribed you, and you've got to do what  
13 we asked"?

14 A. There is another email that follows that that also  
15 states that, "David, will you" -- "Oliver said that" -- the  
16 part about the politics.

17 Q. Yeah.

18 A. And "David, will you speak to Oliver as it relates to  
19 speaking in front of the commission because it seems that  
20 he's having second thoughts."

21 Q. Okay. And let me ask you about the politics issue.

22 A. Uh-huh.

23 Q. Does the politics issue for you include your side deal  
24 with John Powe?

25 A. No.

1 Q. Oh, that didn't cross your mind?

2 A. No.

3 Q. Okay. Let me go talk to you for a minute about the  
4 joint resolution, that June 3rd resolution. I believe  
5 that's GX 80. Or, excuse me. That's a letter.

6 Is there a copy of the joint resolution? Do you have  
7 that? I'm sorry.

8 I can ask you about it, in any event, without it. It's  
9 been in evidence before.

10 But with respect to this joint resolution and you say  
11 ultimately you voted on it, and you explained that all at  
12 some length the other day?

13 A. Of course. Yes.

14 Q. My client never talked to you in life about that  
15 resolution, did he?

16 A. No.

17 Q. And nobody -- Mr. Gilbert never talked to you about it  
18 and asked you to sponsor it or vote on it, do anything with  
19 it, right?

20 A. No, sir.

21 Q. Okay. Now, I want to talk with you about aspects of  
22 your plea agreement.

23 (Defendant's Exhibit 48 was referenced.)

24 MR. ASBILL: DX 0048, if you could bring that up. All  
25 right. This is in evidence. You can highlight the first

1 page.

2 Q. All right. This is your contract with the government,  
3 right?

4 A. Yes.

5 Q. Okay. And you signed this on the 16th of June, last  
6 summer, 2017, correct?

7 A. Yes.

8 Q. And then six days later on the 22nd you actually went  
9 before Judge Kallon and entered the plea; is that right?

10 A. Not on that date. There was another judge that I saw  
11 previous to Judge Kallon.

12 Q. Magistrate Judge Putnam?

13 A. I would -- yes, sir.

14 Q. Okay.

15 A. Uh-huh.

16 Q. All right. So six days after you signed the agreement,  
17 you went into court and you, under oath --

18 A. Uh-huh.

19 Q. -- entered this plea agreement, right?

20 A. No. Pleaded not guilty.

21 Q. Pleaded not guilty? So you've never pleaded guilty, and  
22 you're not going --

23 A. Yes.

24 Q. -- to do that until you're sentenced?

25 A. No, I pleaded guilty.

1 Q. Oh, all right. So you pled guilty at that time?

2 A. Yes.

3 Q. Per the terms of this contract with the government,  
4 right?

5 A. Yes, sir.

6 Q. All right. In the -- I want to go to page 1, second  
7 paragraph. Down to the second paragraph here. So the  
8 terms of this are you're going to plead guilty to seven  
9 counts --

10 A. Yes.

11 Q. -- correct?

12 A. Uh-huh.

13 Q. And you're not going to hold any office anymore?

14 A. No, sir.

15 Q. Right? And you're going to pay restitution on the  
16 conspiracy, bribery, and fraud counts?

17 A. Yes, sir.

18 Q. To the victims, right?

19 A. Yes, sir.

20 Q. And you're going to pay restitution for the taxes due  
21 for 2011 to '15?

22 A. Yes, sir.

23 Q. Right? And you're going to forfeit 768,000 bucks,  
24 right?

25 A. Yes, sir.

1 Q. Okay. And in exchange -- so that's your side of the  
2 deal. The other side is in exchange -- right?

3 A. Yes, sir.

4 Q. All right. The United States Attorney, and go over to  
5 page 2, they're going to do a lot of things; namely, to  
6 move to recommend a specific sentence that's set forth in  
7 the lower paragraphs.

8 A. Yes, sir.

9 Q. Is that right?

10 A. That's correct.

11 Q. And you've signed this document in various places. On  
12 page 26, for example.

13 MR. ASBILL: Would you go to that, Sam?

14 Q. That's your signature there?

15 A. Yes, sir.

16 Q. And on page 42.

17 MR. ASBILL: Would you go to that?

18 Q. And that's your signature there, too, right?

19 A. Yes, sir.

20 Q. And on any of these pages --

21 MR. ASBILL: Or go to random page, any random page,  
22 Sam.

23 Q. Those are your initials on the bottom of each page,  
24 right?

25 A. Yes, sir.

1 Q. So you read it carefully and you signed it with your  
2 full signature and you initialed each page?

3 A. Yes, sir.

4 Q. Is that correct?

5 A. That's correct.

6 Q. Now, this business about full restitution -- or the  
7 forfeiture judgment of \$767,783: year later, anything  
8 paid?

9 A. No, sir.

10 Q. How about the tax debt?

11 A. Waiting to be sentenced.

12 Q. You can't pay restitution -- you're going to pay it  
13 immediately upon sentencing? You're going to pay all what  
14 you owe?

15 A. No, sir. I don't have all of that.

16 Q. Well, in terms of what you owe for restitution, what you  
17 owe for taxes, what you owe pursuant to this agreement, how  
18 much are you going to be able to pay in August of 2018 when  
19 you're sentenced?

20 A. As much as I can.

21 Q. Well, what does that mean? Give me a ballpark figure.

22 MR. MARTIN: Judge --

23 THE COURT: Sustained.

24 Q. (BY MR. ASBILL:) The truth is you don't believe you're  
25 ever going to be able to pay off your obligations pursuant

1 to this agreement, do you?

2 A. Oh, if I live long enough, I am.

3 Q. If you don't spend a hundred years in jail, you mean?

4 A. Either way.

5 Q. Either way. But you don't have anything close to what  
6 you owe to cough up now, right?

7 A. But I'm going to do the best as I can.

8 Q. Yeah. And your hope is that at some point, the  
9 government is going to say, you know, we give up. We can't  
10 get blood from a stone, and they're going to walk away from  
11 the debt?

12 MR. MARTIN: Objection, Your Honor.

13 THE COURT: Sustained.

14 MR. ASBILL: Let me go to page 9, for example, on this  
15 document. And go to the bottom paragraph, please.

16 And highlight that, Sam, and go over to the next page,  
17 too. That bottom paragraph and over to page 10.

18 Q. Okay. At the bottom of the paragraph on page 9 in the  
19 document that you signed, you say that ABC Coke and the  
20 Drummond Company were facing tremendous potential costs,  
21 right?

22 A. I think that's known.

23 Q. I'm sorry?

24 A. I think that's known.

25 Q. You think that's known?

1 A. Yes.

2 Q. Yeah, but -- and what do you know about the costs that  
3 the Drummond Company potentially could face if it loses  
4 this battle with the EPA?

5 A. Costs for the cleanup.

6 Q. And what would that be? Give me the number.

7 A. Can't give you a number. But I know there's tremendous  
8 cost. Anytime you go out to three communities -- four  
9 neighborhoods in an entire city, that's tremendous cost.

10 Q. Yeah? Okay. And do you have the slightest idea, you  
11 know, what Drummond is worth?

12 A. No, sir.

13 Q. Do you have the slightest idea what Drummond's annual  
14 revenue is?

15 A. No, sir.

16 Q. Do you have any idea whether -- if they're forced to pay  
17 whatever they have to pay, whether that would be,  
18 basically, a rounding error for Drummond?

19 A. No, sir.

20 Q. Do you know what that concept means, a rounding error?

21 A. Yes, I do.

22 Q. Okay. Now, let's go to, I think, page 22, talk about  
23 your -- this is the 17,000 or almost 18,000 bucks worth of  
24 campaign contributions on personal stuff, right?

25 A. Yes.



1 Q. All right. And this personal stuff, by the way, is  
2 stuff that nobody else knew about?

3 A. No, sir.

4 Q. Am I right or am I wrong?

5 A. You're right.

6 Q. Page 22 --

7 A. Other than Number 4 and Number 5, which I alluded to  
8 earlier as the amount that was the mistake in the process,  
9 and I reduced it down from the 18 to the 15.

10 Q. To the 15?

11 A. Exactly.

12 Q. All right. Now, page 23, that's where they're talking  
13 about your spending \$250,000 on personal items, on page 23,  
14 from campaign -- from contributions?

15 A. Yes.

16 Q. And page 24, we've talked about Borland & Benefield,  
17 your accountants, right?

18 A. Yes, sir.

19 Q. That you told my esteemed colleague, Mr. Sharman, that  
20 you lied to about your taxes; is that right?

21 A. Yes, sir. Yes, sir.

22 Q. Okay.

23 And then go to page 25, please.

24 So this is the government's assessment of your tax  
25 deficiency, \$198,000, right?

1 A. Yes, sir.

2 Q. Okay. And that's their understanding, without a lot of  
3 help from you in terms of trying to figure out what might  
4 be a legitimate business expense, what's not a legitimate  
5 business expense, et cetera, right?

6 A. Because it could be lower than that.

7 Q. Could be higher than that, too, couldn't it?

8 A. Probably not by their calculations.

9 Q. Well, you know, you've got the incentive and you were  
10 given the homework assignment to go figure that out,  
11 weren't you?

12 A. No, sir.

13 Q. Oh, you weren't?

14 A. No, sir.

15 Q. That wasn't part of your plea deal, that you were  
16 supposed to -- maybe not in this agreement but you were  
17 supposed to go figure out -- you could look at all these  
18 records that the government had, and you're supposed to go  
19 back and fine-tune this and come up with something?

20 A. I provided the information to the government to do  
21 exactly this. And through my probation officer, I have  
22 gotten instructions to provide my net worth and my  
23 expenses.

24 Q. But you haven't done that yet?

25 A. We're working on that. I'm working on it.

1 Q. Yeah, you're working on it. Let me give you an example.  
2 Like, there's an Amex bill, and it says lunch at Billy's,  
3 \$20.

4 MR. MARTIN: Objection, Your Honor.

5 MR. ASBILL: I'm just giving a hypothetical example.

6 THE COURT: Sustained. I think the witness has  
7 testified that he signed off on the plea agreement, so the  
8 content in it is correct for purposes of this examination.

9 Q. (BY MR. ASBILL:) My next question then is the only  
10 person who truly knows what was a legitimate expense for  
11 business and what wasn't would be you?

12 A. Working on that.

13 Q. Right?

14 A. Yes, sir.

15 Q. You're working on that?

16 A. Yes, sir.

17 Q. So the IRS can't judge that solely by itself, right?

18 MR. MARTIN: Objection, Your Honor. Relevance.

19 THE COURT: Sustain the objection.

20 Q. (BY MR. ASBILL:) By the way, that email is talking  
21 about you could always withdraw your letter asking to speak  
22 to the -- to ADEM, basically?

23 A. Yes, sir.

24 Q. Now, my client -- you say need to follow up on that. He  
25 never told you you had to go do that, did he?

1 A. No. But the call from David after being instructed by  
2 Joel Gilbert is a part of that, that process.

3 Q. Being given talking points you mean?

4 A. No, sir. No, sir. Not talking points.

5 Q. Oh.

6 A. Mr. Gilbert forwarded Mr. Roberson an email that stated  
7 "He's having second thoughts. David, will you give him a  
8 call?"

9 Q. Okay. And whatever -- did you talk?

10 A. Yes.

11 Q. And the bottom line is he never told you you had to do  
12 anything, right?

13 A. No, they never told me I had to do nothing.

14 Q. Okay.

15 A. Yeah, no, no.

16 Q. Let me go to 27, page 27 of your plea agreement. At the  
17 top, on the second line --

18 MR. ASBILL: Highlight that, please, Sam.

19 Q. -- it said your cooperation, if the government wants you  
20 to, they can ask you to take a lie detector test, right?

21 A. Right.

22 Q. Nobody ever asked you to do that, right?

23 A. No, sir.

24 Q. And if they did, you'd be worried, wouldn't you?

25 A. No, sir.

1 Q. And did you testify in the grand jury?

2 A. No, sir. No, sir.

3 Q. Do you have any understanding that in view of all the  
4 other perjuries that that might be a problem for you to  
5 testify under oath before this trial?

6 MR. MARTIN: Judge, objection. That's argumentive.

7 THE COURT: Sustained.

8 MR. ASBILL: Go to page 35 of the plea agreement,  
9 please. And on the top of 35, the top paragraph, please  
10 highlight that, Sam.

11 Q. "Defendant agrees to pay restitution in the amount we  
12 discussed."

13 A. Yes.

14 Q. And that does not include interest, which will be  
15 assessed by the IRS, right?

16 A. Correct.

17 Q. And, you know, how much do you think this debt's going  
18 to escalate with interest?

19 A. I have no idea.

20 Q. How about penalty? Do you know that penalties are 25  
21 percent of the money you don't report?

22 A. I have no idea.

23 Q. You have no idea? No idea what the ultimate debt is  
24 going to be?

25 A. No, sir.

1 Q. And you don't really care, do you?

2 A. Yeah. Yes, I care. Because it's going to affect my --  
3 my children for what I give to the government to pay for my  
4 misdeeds. Yeah, I do care.

5 Q. Okay.

6 MR. ASBILL: Let's go to 36. Now, on page 36, top of  
7 the page, first two -- first sentence. Highlight that,  
8 Sam.

9 Q. Okay. This says, does it not, that you agree that  
10 restitution is due and payable immediately after judgment  
11 is entered, right, and is subject to immediate enforcement?

12 A. That's what it states.

13 Q. So that means that you've got to cough up all this money  
14 in August if you get sentenced in August, right?

15 A. Every dime I got.

16 Q. No, not every dime you got. Every dime you owe.

17 A. Well, you can't squeeze blood out of a turnip, just like  
18 you said.

19 MR. ASBILL: Let's go to page 37, and the first full  
20 sentence on page 37. All right. Let's highlight that,  
21 Sam.

22 Q. And this says that the plea agreement doesn't resolve  
23 your civil tax liabilities, and the government may seek  
24 additional taxes, interest, and penalties from the  
25 defendant relating to the conduct in the plea agreement and

1 for other periods of time, right?

2 A. Correct.

3 Q. Do you have any ballpark idea how much this is?

4 A. Try not to think about it.

5 Q. Your plea agreement, as Mr. Sharman discussed --

6 MR. ASBILL: You can take that down, Sam.

7 Q. -- obviously it requires you to cooperate with the  
8 government, right?

9 A. Correct.

10 Q. And you're hoping that the government will make  
11 favorable recommendations for you, correct?

12 A. Correct.

13 Q. And you're hoping that Judge Kallon will accept those  
14 recommendations that the government makes?

15 A. Correct.

16 Q. And we've talked a lot about -- today what you have done  
17 that you've admitted to --

18 A. Uh-huh.

19 Q. -- to financially benefit yourself, right?

20 A. Yes, sir.

21 Q. But would you agree with me that there's one thing  
22 that's more important to you than the money?

23 A. My family.

24 Q. That's your freedom. You'd agree with me your freedom  
25 is more important to you than your money, right?

1     A. My family is more important to me than my freedom.

2     Q. And your freedom is more important to you than your  
3 money; isn't that right?

4     A. Correct.

5     Q. And you say your family.

6     A. Yes.

7     Q. You know, what's the status of your relationship now  
8 with your wife?

9             MR. MARTIN: Objection.

10            THE COURT: Yeah. Sustained.

11     Q. (BY MR. ASBILL:) You obviously are concerned about your  
12 freedom, and that is at least second in terms of your  
13 priorities; is that correct?

14     A. Yes. Everybody's freedom is.

15     Q. Okay. That would be fair to say that's more important  
16 than money?

17     A. Yes, sir.

18     Q. Okay. Throughout the course of your direct and other  
19 people's examinations, et cetera, you've talked about my  
20 client, and you've called him David Roberson or  
21 Mr. Roberson. This is the man that you claim you entered  
22 into a bribery conspiracy with and all these related  
23 offenses, money laundering, wire fraud, and whatever else  
24 is related to the bribery, et cetera. You don't even know  
25 how to pronounce his name, do you?



1 A. I always call him Roberson because I'm Robinson, and I  
2 had family that was Roberson. So I called him that. But I  
3 wanted to formally call him Roberson because that's his  
4 formal name.

5 Q. You don't know that he pronounces his name Roberson?

6 A. That's what -- exactly. That's what I am trying to tell  
7 you.

8 MR. ASBILL: Okay. I have no further questions.

9 THE COURT: Mr. Gillen, your witness.

10 MR. GILLEN: Thank you, Your Honor.

11 CROSS-EXAMINATION BY MR. GILLEN:

12 Q. Good afternoon, Mr. Robinson. How are you?

13 A. I'm fine.

14 Q. My name is Craig Gillen. I represent Steve McKinney. I  
15 have a few questions for you.

16 A. Yes, sir.

17 Q. Now, you began in your direct examination talking about  
18 your involvement in what I'll call the EPA issues.

19 A. Yes, sir.

20 Q. In the summer of 2014, correct?

21 A. Yes, sir.

22 Q. And then we go all the way through to February of 2017,  
23 basically, when the checks stop, correct?

24 A. Yes, sir.

25 Q. Okay. So during that period of time, you've told us

1 about all sorts of different meetings that you've had,  
2 correct?

3 A. Yes, sir.

4 Q. You talked about the summer of 2014 when you had an  
5 initial meeting concerning this issue, correct?

6 A. Yes, sir.

7 Q. You talked about meetings in November of 2014, correct?

8 A. Yes, sir.

9 Q. Where you would go down and meet at Balch, the law firm,  
10 correct?

11 A. Correct.

12 Q. You talked about meetings that you had with  
13 Mr. Roberson, and you talked about meetings you had with  
14 Mr. Gilbert, correct?

15 A. Yes, yes.

16 Q. You then told us about meetings that you would have in  
17 December and January, December of 2014 and January of 2015,  
18 correct?

19 A. Correct.

20 Q. You talk about going to the Balch firm in February, I  
21 believe, on two occasions and having meetings with people  
22 there, correct?

23 A. Correct.

24 Q. And having meetings in March and throughout 2015,  
25 correct?

1 A. Correct.

2 Q. And more and more and more meetings in 2016, correct?

3 A. Correct.

4 Q. Dozens of meetings, would you say? 20, 30 meetings?

5 A. At least.

6 Q. During the course of those meetings when you were  
7 meeting, the one person that you did not meet with was  
8 Steve McKinney, correct?

9 A. Correct.

10 Q. Okay. And so of all the meetings from the summer of  
11 2014 through when the checks stopped in February of 2017,  
12 the one thing we can be sure of is that you had no meetings  
13 with Steve McKinney, correct?

14 A. Correct.

15 Q. In addition, from September of 2014 through February of  
16 2017, you had no telephone conversations with him, did you?

17 A. No, sir.

18 Q. And during that period of time, you didn't write him any  
19 letters, did you?

20 A. No, sir.

21 Q. And he didn't write you any letters, did he?

22 A. No, sir.

23 Q. He did not write you any direct emails, correct?

24 A. Correct.

25 Q. And you did not write him any direct emails, correct?

1 A. Correct.

2 Q. So in essence, we've got no communications, no  
3 documents, no meetings, no conference calls, nothing  
4 between you and Mr. McKinney, correct?

5 A. Correct.

6 Q. Okay. And as a matter of fact, in your many interviews  
7 that you had with the FBI -- and I'm not going to go over  
8 all of those. I think we have, you know, gone over that in  
9 some detail in the last couple days, haven't we?

10 A. Yes, we have.

11 Q. But what we can be sure of is that you never told the  
12 FBI that you met with or had any agreement with or  
13 communicated with Mr. McKinney at all, did you?

14 A. No, sir.

15 Q. Okay. As a matter of fact, you never told the FBI or  
16 you've never told the Court that you had any agreement or  
17 entered into any sort of conspiracy or agreement with  
18 Mr. McKinney to do anything wrong, did you?

19 A. Because I never communicated with him.

20 Q. Because you never communicated with him. So now, I want  
21 to go back a little bit and ask you a couple of questions  
22 about some of your earlier testimony, and I don't think I'm  
23 going to be quite as long as my colleagues, but I do want  
24 to ask you a few.

25 Now, as it relates to the EPA, the EPA meeting, I

1 believe you indicated to the FBI that that started when a  
2 young lady from the EPA called you and said she was  
3 responsible for the EPA outreach in the North Birmingham  
4 area, correct?

5 A. Yes. Shea Johnson I think is who it is.

6 Q. So what happened is that to get -- this is, again, in  
7 December of 2014, okay?

8 A. Yes, sir.

9 Q. So someone from the EPA, you say this young lady called  
10 you up, reached out to you, correct?

11 A. Correct.

12 Q. So it was the EPA contacting you about maybe getting  
13 together for a meeting, correct?

14 A. Yes.

15 Q. So what happened is that after you had been contacted by  
16 the EPA, that's when you informed Mr. Gilbert that you had  
17 been contacted by the EPA?

18 A. Correct.

19 Q. And that then set up the meeting that we have actually  
20 listened to portions of that?

21 A. That's correct.

22 Q. Now, one of the things there -- and you told us on  
23 Tuesday that you were there in sort of an  
24 information-receiving mode, correct?

25 A. Correct.

1 Q. You were not there to pressure, advise, or try to get  
2 EPA to do anything. You were in there in the receiving  
3 mode of getting information from them, correct?

4 A. Yes, to provide to Mr. Gilbert and Mr. Roberson.

5 Q. For a meeting that the EPA had called, correct?

6 A. Right.

7 Q. As a matter of fact, what happened in that meeting, and  
8 we listened to the tape, and what happened in that meeting  
9 is that during certain portions of that meeting, the EPA  
10 was pitching you --

11 A. Yes.

12 Q. -- to help, correct?

13 A. Correct.

14 Q. And so at least on three occasions during that meeting  
15 with the EPA, and it's hard to tell which one is speaking  
16 because we know that -- a female voice, but we can hear  
17 what they're saying on the tape, correct?

18 A. Correct.

19 Q. And on three occasions, they're sort of saying, "Gee,  
20 kind of as an elected official, maybe you can help us in  
21 this area," correct?

22 A. Correct.

23 Q. And so they call you. You go to the meeting. You  
24 record it. And we have the evidence of them pitching you  
25 to help them, correct?

1     **A.**   Correct.

2     **Q.**   Okay.  Now, I want to ask you a little bit about the  
3     commission appearance on February 20.  Now, on that --  
4     first of all, there was no pending hearing on anything  
5     related to 35th Avenue or Tarrant at that hearing.  There  
6     wasn't a hearing there.  It was just they were having a  
7     meeting, correct?

8     **A.**   Yeah, I asked for that to be on the agenda.

9     **Q.**   My point being that they hadn't slotted down time to --  
10    you know, when you see on television when congress is  
11    taking testimony on something and they call witnesses in  
12    and they're having people make statements or testify,  
13    that's not what this was, was it?

14    **A.**   No, sir.

15    **Q.**   As a matter of fact, if you had not asked to go, then  
16    probably it wouldn't even have come up at all, correct?

17    **A.**   Exactly.

18    **Q.**   There wasn't any pending resolution that they were  
19    considering, correct?

20    **A.**   No, sir.

21    **Q.**   There wasn't any pending vote that they could have had  
22    an impact on, correct?

23    **A.**   Correct.

24    **Q.**   And so you go, and we saw your comments, and during your  
25    comments, the Chairman Brown kind of says, you know, kind

1 of keep it under 10 minutes, right?

2 A. Exactly.

3 Q. And that was sort of the rule that they had when people  
4 were permitted to come and speak, that they wanted you to  
5 speak for 10 minutes or less, correct?

6 A. Correct.

7 Q. They're giving people like yourself or any other citizen  
8 that has been permitted to speak 10 minutes to say what you  
9 want to say, correct?

10 A. Correct.

11 Q. Now, prior to the meeting, you had actually met with two  
12 of the members on the board, correct?

13 A. Correct.

14 Q. Now, you had met with Scott Phillips, the vice chair,  
15 correct?

16 A. Yes, sir.

17 Q. And then you met with the chairman, also, Mr. Brown,  
18 correct?

19 A. Correct.

20 Q. And that meeting took place on February 18 -- excuse  
21 me --

22 A. Yeah, 18th. It's 18th.

23 Q. February 18, 2015?

24 A. Yes, sir.

25 Q. That was for drinks and sort of a get-to-know-you sort



1 of thing?

2 A. Yes, sir.

3 Q. At that time, that was the first that you had met  
4 Mr. Phillips prior to that, correct?

5 A. Mr. Brown.

6 Q. No. You had met Mr. Phillips --

7 A. Prior to, yes, sir.

8 Q. Prior to that, you had met Mr. Phillips, correct?

9 A. Yes.

10 Q. Did you see him in passing up in the Balch office when  
11 you were up in the Balch office on one occasion?

12 A. Yes, that was the day of the meeting between Trey Glenn,  
13 myself, Mr. Roberson, and Mr. Gilbert.

14 Q. February 11, 2015, correct?

15 A. Yes. Somewhere in there.

16 Q. And so that's when you saw Mr. Phillips up there. Did  
17 you know at that time that he was the vice chair of the  
18 board?

19 A. No, had no idea.

20 Q. Okay. But in any event, somehow it gets set up where  
21 you are going to meet the chairman as well as the vice  
22 chairman for kind of a social hour to chat?

23 A. Right.

24 Q. And I believe you indicated that at that time, that's  
25 when you -- go ahead.

1     A.   Yeah.  I was going to meet the chairman.  I didn't know  
2     at that time until we arrived at Daniel George that  
3     Mr. Phillips was the vice chair.

4     Q.   Okay.  That was -- but you remember seeing him a few  
5     days --

6     A.   Oh, yeah, I've done work with him.

7     Q.   Okay.  So you've done work with him.  And you were a  
8     little bit surprised that he was --

9     A.   He was the vice chair.

10    Q.   Right.  I think you indicated you didn't know much about  
11    this commission, right?

12    A.   Not -- nothing at all.

13    Q.   Because really, the commission itself, as you know, has  
14    no ability or authority, legal authority to pass any law,  
15    do they?

16    A.   Just to hire and fire the director.  I know that's one  
17    of them.

18    Q.   They can't pass resolutions -- or they can't pass  
19    binding resolutions, correct?

20    A.   Yes, sir.

21    Q.   They don't have the ability, for example, that you had  
22    when you were in the state legislature to pass laws and  
23    ultimately, if signed by the government, they become  
24    binding law, correct?

25    A.   Correct.

1 Q. That commission didn't have that, did they?

2 A. No, not other than as it related to environmental issues  
3 and directing the director.

4 Q. They can't direct the director, but they can -- they  
5 cannot --

6 A. They can make recommendations.

7 Q. But they cannot direct the director, can they? They  
8 can't tell the director what to do, can they?

9 A. I don't -- I can't say. I can't answer that question.

10 Q. If you don't know, that's fine.

11 A. Yeah.

12 Q. We'll get somebody who knows, and we'll handle that.

13 A. That'll be fine.

14 Q. So right now, you don't know whether or not the  
15 commission has the ability to direct the director to do  
16 anything?

17 A. Exactly.

18 Q. Okay. So you meet with Chairman Brown. First time  
19 you'd met him. Introduce yourself. Tell him you're going  
20 to be down there, you know, in a few days, and also Vice  
21 Chair Scott Phillips is there, correct?

22 A. Correct.

23 Q. Now, I believe, looking at the tape, it was Vice Chair  
24 Phillips who actually moved to make the motion to permit  
25 you to speak?

1 A. Allow me to speak, yes.

2 Q. Someone seconded it, and then you gave the speech that  
3 we've seen twice now.

4 A. Yes, sir.

5 Q. Okay?

6 A. Yes, sir.

7 Q. So then after that, of course, because they have no  
8 authority to make law, there was no vote or binding  
9 anything coming out of the commission after your  
10 appearance, correct?

11 A. No, because it was, like you said, it was just public  
12 comments.

13 Q. Public comments. You could have appeared or my  
14 next-door neighbor, if my next-door neighbor asked to speak  
15 and someone said okay, my next-door neighbor could get up  
16 and talk for 10 minutes?

17 A. He could, but the only difference is that I was a  
18 legislator, and the next-door neighbor wasn't elected by  
19 43,000 people.

20 Q. Exactly. But my point is that the public comment  
21 period -- it's kind of like an open mic, correct? Like  
22 open mic night. You've got 10 minutes. We're going to let  
23 you talk and go ahead and give us whatever you want to say  
24 for 10 minutes?

25 A. It's a little bit more, in my opinion, formal than that

1 if it's an elected official that's doing the talking.

2 Q. Well, but there are other people who appear there that  
3 are not elected officials.

4 A. Exactly.

5 Q. People show up all the time, and they get 10 minutes,  
6 just like you got 10 minutes, right?

7 A. Yes, sir.

8 Q. You didn't get any more or any less than anybody else  
9 who would be given the privilege of speaking before the  
10 commission, correct?

11 A. No more, no less.

12 Q. Okay. Now, when you were -- and talking a little bit  
13 about your involvement with Balch and your involvement with  
14 Balch and Drummond, I want to focus on that, okay?

15 A. All right.

16 Q. Now, one of the things that we established on Tuesday  
17 through examination is that when you were warned, warned,  
18 warned, warned by these folks over here at the government  
19 table that when you talk with them, what you had to say to  
20 them had to be the truth, correct?

21 A. Yes, sir.

22 Q. And the complete truth, correct?

23 A. Yes, sir. As well as I know it.

24 Q. And what you said on Tuesday is whatever you said during  
25 those -- was it multi-hour interviews that you had with the

1 prosecutors and the agents?

2 A. Yes, sir.

3 Q. Multi-hours. And you indicated that you feel very  
4 confident that what you said was true, to the best of your  
5 ability, right?

6 A. To the best of my ability, yes, sir.

7 Q. And you stand by that today?

8 A. Yes, sir.

9 Q. Okay. Now, what they did when they brought you in on  
10 February 13, 2017 -- remember? That was, I think, the  
11 first one.

12 A. Yes.

13 Q. When they brought you in on that day, they asked you a  
14 question. Do you remember being asked how you can  
15 reconcile having a contract to represent Balch & Bingham  
16 and Drummond and having been elected to represent the  
17 people? Do you remember?

18 A. I remember that one.

19 Q. And do you remember telling them the truth, the whole  
20 truth, and nothing but the truth when you said that you did  
21 nothing that you would not have done had Balch & Bingham  
22 not been involved? Do you remember saying that?

23 A. I remember saying that. But sitting here today, I was  
24 in complete denial.

25 Q. Hold on. Hold on, sir.

1 A. I'm -- you asked me.

2 Q. You just got through telling us that what you told these  
3 people on February 13 --

4 A. Yes, sir.

5 Q. -- 2017 was the truth, the whole truth, and nothing but  
6 the truth. Didn't you just tell us that?

7 A. I told you that. And I --

8 Q. And you told us on Tuesday that you were very confident  
9 that what you told these people --

10 A. Uh-huh.

11 Q. -- everything you stood by, that you would stand by that  
12 as being truthful, correct?

13 A. But I was in complete denial.

14 Q. No, no, no.

15 A. I was lying to myself.

16 Q. I'm sorry. Go ahead and you finish your comment.

17 A. I was lying to myself.

18 Q. You were lying -- were you lying to yourself? You just  
19 got through telling us you told them the truth.

20 A. I was lying to -- I was in complete denial. You're  
21 exactly right. That was the February interview, the first  
22 interview coming out of just being served by the federal  
23 government. Never had that experience before in my life,  
24 never ever been involved in anything that brought legal --  
25 the legal process to my home. Never being ever a part of

1 anything of that nature. And when I made that statement, I  
2 was lying to myself, but I was in complete denial. I was.

3 Q. Well, were you lying to this jury on Tuesday when you  
4 told this jury that everything that you told the FBI in all  
5 of your interviews was the truth and the complete truth?  
6 Were you lying to this jury on Tuesday?

7 A. The truth as I knew it.

8 Q. On Tuesday, you lied to this jury; is that right?

9 A. No, sir.

10 Q. And did you lie to this jury a few minutes ago when I  
11 asked you yet again whether or not everything you said to  
12 these people during this interview process was the truth  
13 and the complete truth --

14 A. I told you that I was in complete denial and that I was  
15 lying to myself.

16 Q. Pardon me. Let me finish my question.

17 A. Yes, sir.

18 Q. Did you or did you not tell this jury a few moments ago,  
19 and reaffirm what you had said, that everything that you  
20 said to the FBI and the U.S. Attorney's Office during your  
21 interviews that you stood by and that it was the complete  
22 truth? Did you say that a few minutes ago, yes or no?

23 A. As well as I knew it. As well as I knew it.

24 Q. Okay. And what you told them was that what you did --  
25 they did nothing that would not have been done had Balch &



1 Bingham not been involved. You remember telling these  
2 folks that, don't you?

3 A. And I was in complete denial.

4 Q. And what happened is on that day, on February 13, what  
5 happened on that day is that you were talking with them --  
6 no. Just one moment. And you were talking to them and you  
7 had a breakdown, correct?

8 A. Correct.

9 Q. And what happened is, is that they confronted you. They  
10 confronted you with what they knew about your financial  
11 crimes, correct?

12 A. Correct.

13 Q. And so what happened at that point is that you broke  
14 down. They broke you, didn't they? They broke you?

15 A. I broke myself, thinking --

16 Q. They broke you by bringing those facts up, and they  
17 broke you, didn't they?

18 A. No sir, I broke myself.

19 Q. And when they broke you and literally -- this is  
20 important, and I'm sorry to bring this up.

21 A. No, that's fine.

22 Q. This had to be an uncomfortable situation.

23 A. That's fine.

24 Q. You were sobbing, weren't you? You were sobbing during  
25 the interview with the FBI and the U.S. Attorney's Office,

1 weren't you?

2 A. No, sir, I was not sobbing.

3 Q. Crying. You were just crying, not sobbing?

4 A. Tears coming out of my eyes.

5 Q. And I believe they indicated in the report, lips  
6 quivering as part of that?

7 A. Yes.

8 Q. And then because your crying had to do with the fact --

9 A. That I was in denial.

10 Q. Hold on. I've got to ask the question, sir.

11 A. Oh, I'm sorry, sir. I'm sorry.

12 Q. Your crying had to do with the fact that suddenly Oliver  
13 Robinson understood that his game was over; isn't that  
14 right?

15 A. No, sir.

16 Q. Isn't it true that you were crying because Oliver  
17 Robinson understood that all of those years of deceit and  
18 theft and lying had now bubbled up to the surface; isn't  
19 that right?

20 A. No, sir. Thinking about my family.

21 Q. Oh. Were you thinking -- when you were crying, were you  
22 thinking about how you stood before good people and asked  
23 them for their money to be given to your foundation because  
24 you would tell those people that what you were doing is you  
25 were taking their money and doing good for the lower-income

1 families to help them with financial issues, right?

2 A. And I did.

3 Q. And you helped somebody else with their financial  
4 issues, and that --

5 A. Myself.

6 Q. -- would be one Oliver Robinson?

7 A. Yes, sir.

8 Q. And you understood as they confronted you on  
9 February 13, 2017, you understood that your -- the secrecy  
10 over the other part of Oliver Robinson the public didn't  
11 see was going to be revealed, correct?

12 A. I was thinking about my family.

13 Q. And the part of Oliver Robinson that Mr. Roberson and  
14 Mr. Gilbert did not see, that was the part you were worried  
15 about getting out in the public; isn't that right?

16 A. No, my family.

17 Q. And you were worried about the fact that all of this was  
18 going to come down and the good times were over. That's  
19 why you were crying, right?

20 A. No, sir.

21 Q. Okay. And then -- then you sort of dried off your tears  
22 and straightened up your back and made a decision that they  
23 got me now; so what I have to do now is I got to make up  
24 some more lies --

25 A. No, sir.

1 Q. -- about somebody else.

2 A. No, sir.

3 Q. That's what you did, didn't you?

4 A. No, sir. No, sir.

5 MR. GILLEN: That's all I have.

6 THE COURT: Ladies and gentlemen of the jury, it's a  
7 minute earlier than I promised you I would stop. Let's  
8 stop here for roughly 16 minutes.

9 Please do not talk about the case during the break.  
10 And please be ready in time for us to come back promptly at  
11 10 minutes to 3:00. Thanks, everyone.

12 And, again, please consult with each other and let me  
13 know if you want me to keep going an hour and 15 minutes,  
14 then break, or an hour and then break for 10 minutes.  
15 Thanks.

16 (The following proceedings were had in open court  
17 outside of the presence and hearing of the jury.)

18 THE COURT: Mr. Robinson, same deal, sir. You may step  
19 down.

20 We are in recess for the next 15 minutes.

21 (Recess.)

22 THE COURT: Mr. Martin, I'm going to take a break in an  
23 hour if you're still up there.

24 (The following proceedings were had in open court in the  
25 presence and hearing of the jury.)

1 THE COURT: Be seated, everyone.

2 Mr. Martin, redirect?

3 MR. MARTIN: We have no further questions, Your Honor.

4 THE COURT: Mr. Robinson, looks like you're free to go.  
5 Have a good afternoon, sir.

6 (Witness excused.)

7 THE COURT: Who is the government's next witness?

8 MS. MARK: The government calls Trey Glenn.

9 MR. ASBILL: Before we do that, can we approach for a  
10 second?

11 THE COURT: He's not released from the subpoena, if  
12 that's the issue.

13 MR. ASBILL: No, no. It's a different issue.

14 THE COURT: Let's come on up, please.

15 Karen, may I have some white noise, please? Mr. Glenn  
16 is next.

17 (At sidebar:)

18 THE COURT: Is this an issue with this witness coming  
19 up?

20 MR. ASBILL: No.

21 THE COURT: Okay. What's the issue?

22 MR. ASBILL: The issue is I'd ask the Court to give an  
23 in limine instruction now to the effect of Mr. Robinson's  
24 plea agreement is no evidence of anyone's guilt except his  
25 own.

1 THE COURT: Okay. I'll say that as part of my charge,  
2 but I'll also say that now.

3 MR. ASBILL: Yes, sir.

4 (In open court:)

5 THE COURT: If I heard correctly, you are Mr. Glenn?

6 MR. GLENN: Yes, sir.

7 THE COURT: Good afternoon, sir. Give me a minute,  
8 please. I just need to tend to something administrative  
9 before you begin.

10 Members of the jury, obviously these defendants before  
11 me have pleaded not guilty to the charges against them.  
12 The fact that Mr. Robinson, who just testified, has pleaded  
13 guilty should not in any way be factored in in deciding  
14 whether or not these defendants are guilty of the charges  
15 filed against them.

16 Ms. Humphrey, you may swear in Mr. Glenn, please.

17 (Witness sworn.)

18 THE COURTROOM DEPUTY: Please state and spell your  
19 first and last name for the record.

20 THE WITNESS: It's Onis Glenn III. O-n-i-s  
21 G-l-e-n-n III.

22 THE COURTROOM DEPUTY: What city and state do you  
23 reside in?

24 THE WITNESS: Vestavia Hills, Alabama.

25 THE COURT: Ms. Mark, your witness.

1 MS. MARK: Thank you, Your Honor.

2 ONIS "TREY" GLENN III,  
3 duly sworn, was examined and testified as follows:

4 DIRECT EXAMINATION BY MS. MARK:

5 Q. Mr. Glenn, good afternoon.

6 A. Good afternoon.

7 Q. Can you start by telling us what do you do for a living?

8 A. Currently I am the Region 4 EPA administrator.

9 Q. And tell us what is the Region 4 administrator?

10 A. I am the administrator over the eight southeastern  
11 states. The United States Environmental Protection Agency  
12 is divided into ten regions across the country. So I head  
13 the one for the eight southeastern states. We oversee all  
14 the environmental quality regulations that interact with  
15 our states.

16 Q. Can you give us just a brief description of what you do  
17 as the Region 4 administrator?

18 A. I spend a lot of time interacting with my staff to  
19 ensure that administration priorities are followed through  
20 and carried out at the region which includes heavily  
21 interacting with the states, the eight southeastern states,  
22 as most of them are delegated to run the programs on our  
23 behalf.

24 Q. Who was the Region 4 administrator before you began,  
25 immediately before you?

1 A. Anne Heard was the acting Region 4 administrator prior  
2 to me coming on board.

3 Q. And who was the Region 4 administrator before Ms. Heard?

4 A. Heather Toney.

5 Q. And is the Region 4 administrator a presidential  
6 appointed position?

7 A. Yes, ma'am.

8 Q. Can you tell us how that works, how that came about that  
9 you became the Region 4 administrator?

10 A. I submitted an interest letter to -- through our  
11 congressional delegation expressing my interest in being  
12 considered for this position, and that ultimately led to  
13 several conversations with senators as well as the EPA  
14 administrator, Scott Pruitt, at the time, which resulted in  
15 an interview and then selection for the job.

16 Q. All right. Did any attorneys at Balch & Bingham assist  
17 you with your interest letter?

18 A. I'm not sure about the interest letter, but I certainly  
19 interacted with several attorneys at Balch & Bingham as  
20 they were friends of mine as well as others just in getting  
21 input on my résumé, on letters I was sending and the like,  
22 yes, ma'am.

23 Q. And did that include Steve McKinney?

24 A. I believe it did, yes, ma'am.

25 Q. How do you know Steve McKinney?



1 A. I'd met Steve McKinney professionally probably 20 years  
2 or more ago and worked with him and then more recently had  
3 become closer personal friends with him as we hunted  
4 together.

5 Q. Okay. And can you tell us what things Mr. McKinney did  
6 to assist you with that Region 4 appointment?

7 A. The only thing I can recall is that I passed on my  
8 résumé as well as some of the interest letters I was  
9 sending just to get input from him, like I did several  
10 other friends of mine.

11 Q. Okay. What about David Roberson? Did you also discuss  
12 that interest in the Region 4 administrator position with  
13 David Roberson?

14 A. I did. Yes, ma'am.

15 Q. Can you tell us about that?

16 A. I did. Very, very similar. I showed him my résumé as  
17 well as I probably discussed the interest letters as well  
18 and got his input on that.

19 Q. How do you know David Roberson?

20 A. I've known David probably longer than that. Over 20  
21 years, I would think. I met him professionally, and then  
22 we created a personal relationship as well. So I've known  
23 him for many years, worked with him in various capacities.

24 Q. Did each of those individuals, Steve McKinney and David  
25 Roberson, did they serve as a reference for you for that

1 position?

2 A. My recollection is that David Roberson served as a  
3 reference for me, yes, ma'am.

4 Q. Can you tell us just a brief description of your  
5 education background?

6 A. Yes, ma'am. I'm a civil engineering graduate from  
7 Auburn University, and I have a master's of business  
8 administration from University of Alabama at Birmingham.

9 Q. All right. Prior to becoming the Region 4  
10 administrator, what were you doing?

11 A. I was an independent consultant and engineer working  
12 with Strada Professional Services and Blue Ridge  
13 Consulting, Inc.

14 Q. Okay. And immediately prior to Strada, where were you  
15 working or who were you consulting for?

16 A. Southeast Engineering & Consulting and Blue Ridge  
17 Consulting, Inc.

18 Q. We have heard some testimony about Southeastern  
19 Engineering, but can you tell us what is Southeast  
20 Engineering & Consulting?

21 A. Southeast Engineering & Consulting was a consulting firm  
22 that we created to provide professional services to clients  
23 primarily in the program management and environmental and  
24 engineering space.

25 Q. When you say "we created it," can you tell us who

1 created Southeastern Engineering?

2 A. Yes. It was four of us came together, Scott Phillips,  
3 Bill Vaughan, Ron Thompson, and myself to join up to  
4 provide services.

5 Q. All right. And I have heard it referred it as SEC. Is  
6 that how you and your colleagues refer to it?

7 A. Yes, ma'am.

8 Q. Is that fair?

9 A. Yes, ma'am. It's less of a mouthful.

10 Q. Not the football?

11 A. No.

12 Q. Not the football. All right. So at some point in 2006,  
13 did SEC merge with Strada?

14 A. I believe probably 2016.

15 Q. 2016. Thank you.

16 A. Yes, ma'am.

17 Q. In this case we're going to be talking about your work  
18 during the time periods of 2014 -- 2013 through 2015. So  
19 just to be clear, during that period of time, were you  
20 working for SEC?

21 A. Yes, ma'am.

22 Q. Okay. I'm going to shift gears and talk to you for a  
23 moment about ADEM.

24 A. Okay.

25 Q. Have you previously worked for ADEM?

1 A. Yes, ma'am, I have.

2 Q. And just to be clear, that's the Alabama Department of  
3 Environmental Management?

4 A. Yes, ma'am.

5 Q. Tell me when did you work for ADEM?

6 A. Approximately 2005 through the end of 2009, I believe.  
7 Five-year time period.

8 Q. What was your position in ADEM?

9 A. I was the director of ADEM.

10 Q. And how did you become the director of ADEM?

11 A. That job became available, and I expressed interest in  
12 that and spoke to at that time Governor Riley, talked about  
13 my interest in that, put in an application and was  
14 interviewed and selected.

15 Q. How is the director appointed to ADEM?

16 A. Through the Environmental Management Commission. It's a  
17 seven-member board that appoints the director.

18 Q. Can you tell us just a brief description of what ADEM  
19 does?

20 A. In general, ADEM implements the federal laws, things  
21 such as Clean Air Act, Clear Water Act, and others on  
22 behalf of the federal government as a delegated authorized  
23 state.

24 Q. Who is currently serving as the director of ADEM?

25 A. Lance LeFleur.

1 Q. And was he the director during the periods of time 2013  
2 to 2015?

3 A. Yes, ma'am.

4 Q. All right. Can you tell us a little bit about what the  
5 duties are of the director of ADEM?

6 A. Very comparable to those of the EPA administrator in  
7 that space in that they would make sure they implemented  
8 the rules, regulations, and policies that were handed to  
9 the Alabama Department of Environmental Management and  
10 oversee just all of the operations of that -- of that  
11 organization.

12 Q. Does ADEM have a staff of engineers?

13 A. Yes, ma'am.

14 Q. Okay. And as the director, would you work with those  
15 engineers in implementing those ADEM regulations for the  
16 state?

17 A. Yes, ma'am.

18 Q. You mentioned the commission, but can you tell us what  
19 is the Alabama Environmental Management Commission?

20 A. The Alabama Environmental Management Commission is a  
21 government body, a seven-member board appointed on rolling  
22 terms, staggered terms, appointed by the governor of the  
23 State of Alabama with individuals that had specific  
24 professional characteristics.

25 Q. Okay. Can you describe for us the interactions between

1 the director of ADEM and the commission?

2 A. Yes, ma'am. Besides informal interactions, which would  
3 just be general conversations or the like, there would be  
4 formal interactions in the form of commission meetings that  
5 occurred approximately every two months where the  
6 commission would meet and hear reports from the department  
7 or set any policy that they felt the need to set such as  
8 passing and adopting rules or ruling on administrative  
9 matters before them.

10 Q. Does the commission have the ability to meet with the  
11 director about his position and things that are happening  
12 at ADEM?

13 A. The individual commission members could speak to the  
14 director, of course, at any time, but the commission as a  
15 body would do that in their formal approximately bimonthly  
16 meetings.

17 Q. Okay. And I think you said this, but does the  
18 commission have a role in appointing the director?

19 A. Yes, ma'am. The commission hires and fires the  
20 director.

21 Q. Okay. Now, can you tell us a little bit about the  
22 relationship between ADEM and the EPA? How does that work?

23 A. Yes, ma'am. As the -- ADEM, like most other states in  
24 the country, have passed laws and regulations to implement  
25 the environmental laws on behalf of the federal government.

1 And so the EPA will give a state delegation and, in turn,  
2 lay out expectations that they will meet, provide funding,  
3 and then interact and oversee those actions.

4 Q. Is the funding that's provided to ADEM, is that -- it's  
5 a significant part of their funding. Does it come from  
6 EPA?

7 A. Yes, ma'am.

8 Q. I want to change gears and talk to you about the 35th  
9 Avenue Superfund Site. Are you familiar with that site?

10 A. Yes, ma'am.

11 Q. Okay. Do you recall that in about September of 2013,  
12 that EPA named some potentially responsible parties?

13 A. Yes, ma'am, I am.

14 Q. When you learned about that, did you do anything in  
15 response to that?

16 A. Yes, ma'am. One of our colleagues had seen that  
17 announcement, I believe in a newspaper article, and very  
18 soon after that, after consultation with Scott Phillips, I  
19 reached out to David Roberson and just expressed interest  
20 in helping them if they needed help in responding to the  
21 EPA.

22 Q. All right. Why did you reach out to David Roberson?

23 A. Because I had a long-standing relationship with David  
24 Roberson, and he and I had been friends for a while, and we  
25 had worked together on -- throughout years and years.

1 Q. And did you understand that the company that he worked  
2 for, Drummond, was one of those potentially responsible  
3 parties?

4 A. Yes, ma'am, I think their subsidiary, ABC Coke, was,  
5 yes, ma'am.

6 Q. And who did Mr. Roberson put you in touch with with  
7 respect to that issue?

8 A. With Joel Gilbert.

9 Q. All right.

10 MS. MARK: Your Honor, may I approach the witness?

11 THE COURT: You may.

12 (Government's Exhibit 142 was referenced.)

13 Q. Mr. Glenn, I have handed you a stack of documents.  
14 We're going to start with the first one on top there. Do  
15 you have in front of you what has been marked as  
16 Government's Exhibit 142?

17 A. Yes, ma'am, I do.

18 Q. Can you take a look at that and tell me if you recognize  
19 it?

20 A. Yes, ma'am, I do.

21 Q. And is that an email that you received -- that you sent  
22 from your Blue Creek Consulting email address?

23 A. Yes, ma'am, from Blue Ridge Consulting.

24 Q. Thank you.

25 MS. MARK: Your Honor, at this time we would offer



1 Government's Exhibit 142.

2 MR. ESSIG: No objection.

3 MR. BLOOMSTON: No objection.

4 MR. McKNIGHT: No objection, Your Honor.

5 THE COURT: Thank you all. 142 is received and may be  
6 published.

7 (Government's Exhibit 142 was admitted into evidence.)

8 Q. (BY MS. MARK:) Mr. Glenn, this email will also come up  
9 there on the screen in front of you. You can refer to  
10 whichever one is more convenient for you. Looking at the  
11 top of this -- we will walk through very quickly -- who is  
12 this email from?

13 A. It's from me.

14 Q. All right. What is the date?

15 A. October 10, 2013.

16 Q. And who did you send this email to?

17 A. To Joel Gilbert and David Roberson.

18 Q. Can you tell us just generally what is this email about?  
19 What were you sending to them?

20 A. I was sending them a draft proposal or a scope of work  
21 that Scott Phillips and I had put together for them to  
22 consider to support them in their efforts dealing with EPA  
23 and the site.

24 Q. All right. And it says there in that first sentence, it  
25 says "with a focus on EJ, PR, outreach and technical

1 support." You see where I'm referring to?

2 A. Yes, ma'am.

3 Q. Can you tell us what is EJ?

4 A. Environmental Justice.

5 Q. What is that?

6 A. That is a federal policy and position about making sure  
7 that disadvantaged communities are -- Environmental Justice  
8 communities are not disadvantaged and don't experience an  
9 inappropriate burden.

10 Q. Okay. What about PR? What is that referring to?

11 A. Public relations. Outreach.

12 Q. Okay. And outreach, what does that refer to?

13 A. That would be interacting with external parties.

14 Q. Okay. And then technical support, what is that?

15 A. That would be reviewing technical documents, rendering  
16 opinions or suggestions on those, as well as sampling or  
17 actual analytical work.

18 Q. And is this a draft of a proposal that would have been  
19 submitted on behalf of the company you worked for, SEC?

20 A. Yes, ma'am.

21 Q. And those were the areas that you were offering -- or  
22 that SEC is offering to do work in those areas?

23 A. Yes, ma'am.

24 Q. Can we turn to the second page, and tell me does this  
25 appear to be the draft proposal?

1 A. Yes, ma'am, it appears to be.

2 Q. Okay. And what was the date of that proposal?

3 A. October 8, 2013.

4 Q. And who did you send it to?

5 A. Joel Gilbert.

6 Q. And looking there in the first paragraph, there's some  
7 language that's underlined, and this, again, is what the  
8 proposal is to focus on. Is that the same things we just  
9 discussed?

10 A. Yes, ma'am.

11 Q. Technical support, community involvement, and public  
12 outreach activities?

13 A. Yes, ma'am.

14 Q. Okay. Can I get you to turn over to what is page 4 of  
15 this document. It should be page 3 of the proposal.

16 A. Yes, ma'am. I'm there. Yes, ma'am.

17 Q. Okay. There's a section there that's titled Technical.  
18 Support. Do you see where I'm referring to?

19 A. Yes, ma'am.

20 Q. Can you tell us just very briefly what does this section  
21 offer or propose that SEC could do?

22 A. We proposed that we could provide value to the clients  
23 based on our experience with environmental regulatory  
24 matters, particularly CERCLA in this case.

25 Q. Okay. If we can go out and go down to -- there's three

1 bullet points there in the center. It says "We would  
2 charge for our time and expenses for three particular  
3 things." Can you read those for us?

4 A. Yes, ma'am. "Preparation for and participating in  
5 meetings and calls, review of past technical documents,  
6 data and correspondence, and development of technical  
7 writing and presentations."

8 Q. When it refers to technical documents and technical  
9 writings, does that relate to some of the science and  
10 engineering related to these issues?

11 A. Yes, ma'am, it does.

12 MS. MARK: Thank you.

13 Can we look at the next subheading in this document?

14 Q. And, Mr. Glenn, can you tell us what the next subheading  
15 is in this proposal?

16 A. "Stakeholder and Community Outreach and Involvement."

17 Q. Can you tell us what is a stakeholder?

18 A. A stakeholder would be any party that's affected or  
19 interested in this matter.

20 Q. Okay. And the community outreach and involvement, what  
21 type of qualifications did SEC have to do community  
22 outreach and involvement?

23 A. Specifically, what we had discussed in this case was  
24 Scott Phillips had actually worked with Mr. Roberson on  
25 similar community outreach regarding Superfund sites in

1 Anniston. And so they were very familiar with our  
2 abilities to assist there.

3 Q. Can you give us an idea of what you mean by community  
4 outreach and involvement?

5 A. It would be providing, helping craft messages or going  
6 and hosting meetings on behalf of a client if they wanted  
7 to have that. Or it could be simply attending meetings and  
8 observing what was happening there.

9 Q. Okay. Thank you. So following this proposal that was  
10 submitted, can you tell us what happened in the process?

11 A. Yes. I believe soon thereafter, we were selected and  
12 entered into a contract to support them.

13 Q. Did you provide them with some additional information  
14 about SEC's history and experience?

15 A. Yes, ma'am.

16 (Government's Exhibit 143 was referenced.)

17 Q. Okay. Do you have Government's Exhibit 143? It should  
18 be the next document.

19 A. Yes, ma'am, I do.

20 Q. All right. Take a look at that, and let me know if you  
21 recognize Government's Exhibit 143.

22 A. Yes, ma'am, I do.

23 Q. All right. And is this an email that you sent from your  
24 work email address?

25 A. Yes, ma'am.

1 MS. MARK: Your Honor, at this time we would offer  
2 Government's Exhibit Number 143.

3 MR. ESSIG: Just a moment, Your Honor.

4 No objection.

5 MR. BLOOMSTON: No objection for Roberson, Your Honor.

6 MR. McKNIGHT: No objection.

7 THE COURT: Thank you all. 143 is received and may be  
8 published.

9 (Government's Exhibit 143 was admitted into evidence.)

10 Q. (BY MS. MARK:) Mr. Glenn, looking at this particular  
11 email, does this appear to be an email that you sent on  
12 October 21 of 2013?

13 A. Yes, ma'am, it does.

14 Q. And who did you send it to?

15 A. I sent it to David Moore.

16 Q. And who is David Moore?

17 A. David Moore was an attorney with Balch & Bingham.

18 Q. At that time?

19 A. At that time, yes, ma'am.

20 Q. And who else was copied on the email?

21 A. Scott Phillips, Joel Gilbert, and myself.

22 Q. Can you tell us what this particular email is, what were  
23 you sending to David Moore?

24 A. I was sending Scott Phillips's résumé as well as a  
25 write-up regarding our involvement in the Birmingham area

1 as well as other relevant experience.

2 Q. Okay. And looking at -- I think you have the document  
3 in front of you there. Does it have attached to it what  
4 you've described there, a write-up of your involvement and  
5 Mr. Scott Phillips's résumé or CV?

6 A. Yes, ma'am, it does.

7 Q. Okay. I'm going to turn your attention to page 5 of  
8 this document. And there at the top it references  
9 "relevant experience to the assignment at hand." Do you  
10 see where I'm referring to?

11 A. Yes, ma'am.

12 Q. Can you tell us what those three areas, three main  
13 components that you were planning to address are?

14 A. Air modeling, working with ARARs, and community and  
15 stakeholder involvement.

16 Q. Can you tell us just briefly what are those three items  
17 that y'all were to focus on?

18 A. Air modeling would be analytical activities or  
19 calculations regarding the dispersion of pollutants in the  
20 air. Working with ARARs would be the regulatory side of a  
21 CERCLA action about what regulations and requirements are  
22 relevant and appropriate for action at the time. And then  
23 community and stakeholder involvement would be interacting  
24 with the community, observing meetings and the like, as  
25 we've discussed.

1 Q. All right. If we can turn to the next page, page 6, of  
2 this document. It includes a section there on the  
3 community and stakeholder involvement?

4 A. Yes, ma'am.

5 Q. If you'll look --

6 MS. MARK: If you can highlight that whole section  
7 there? Thank you.

8 Q. The last paragraph there, can you read for us that first  
9 sentence where it begins with "Our strategy."

10 A. Yes, ma'am. "Our strategy of engaging communities and  
11 stakeholders to be a part of achieving our clients'  
12 objectives has allowed us to contribute to our clients in  
13 successfully completing many projects while taking into  
14 account the community's perspective."

15 Q. Can you tell us why were you submitting a proposal to do  
16 community outreach at this point?

17 A. In our experience with Superfund/CERCLA issues,  
18 interacting with the community is a large part, as is --  
19 many times the community is affected by some type of  
20 contamination.

21 Q. And was SEC qualified to do that community outreach?

22 A. Yes, ma'am.

23 Q. All right. Do you recall at some point receiving a  
24 draft of a contract?

25 A. Yes, ma'am.



1 (Government's Exhibit 145 was referenced.)

2 Q. Thank you. And I think if you look in the stack, the  
3 next document you should have is Government's Exhibit 145.  
4 I believe this one -- oh, this one is already in evidence.  
5 I'm sorry.

6 A. Okay.

7 Q. It is not in front of you, but it is on the screen in  
8 front of you. Do you see it there? This is Exhibit 145.

9 A. Okay.

10 Q. Do you recognize this particular email?

11 A. Yes, ma'am.

12 Q. Okay. Looking at this email, can you tell us did you  
13 and Scott Phillips receive a draft of a contract from  
14 Balch?

15 A. Yes, ma'am.

16 Q. And did y'all review that contract?

17 A. Yes, ma'am.

18 Q. And there are some items that are listed there that are  
19 comments from Scott Phillips about the contract. Do you  
20 remember that?

21 A. Yes, ma'am.

22 Q. All right. Looking at Item Number 1, for example, it  
23 references "I wish they would use the term 'technical  
24 service' since they seem to stay with environmental,  
25 regulatory, and political. Would be nice to know we are

1 also doing technical work." Can you tell me what that  
2 comment means to you?

3 A. What it means to me is that Scott wanted to make sure  
4 that the contract actually reflected the fact that we were  
5 going to be providing technical services as well.

6 Q. Okay. Looking at Line Item Number 2, can you read that  
7 one for us?

8 A. "We will need to be sure that my role on commission  
9 meets their requirements and the law, including the ethics  
10 law, and that we perform in the appropriate process and  
11 procedures to document this."

12 Q. What role did Scott Phillips have?

13 A. At that time, Scott Phillips was an environmental  
14 management commissioner.

15 Q. And so what would need to be done to ensure that he  
16 complied with any ethical duties?

17 A. My understanding of that would be that if a matter came  
18 before the commission for him to vote on, he would need to  
19 recuse himself.

20 Q. All right. Was that something that was discussed with  
21 Balch?

22 A. I don't recall that.

23 Q. But Scott Phillips certainly brought it up as something  
24 that wanted to be flagged to make sure they understood his  
25 ethical obligations?

1 A. Yes, ma'am.

2 Q. Based on that, did you become the primary contact with  
3 ADEM going forward?

4 A. I was the primary contact with ADEM, yes, ma'am.

5 Q. Okay. Can you explain that?

6 A. I had a -- and still have a good relationship with Lance  
7 LeFleur, the director of ADEM then and now, and felt very  
8 comfortable talking to him about the client's position.  
9 (Government's Exhibit 146 was referenced.)

10 MS. MARK: Can we pull up Government's Exhibit 146,  
11 please.

12 Q. And, Mr. Glenn, do you recognize Government's  
13 Exhibit 146 that's on the screen there?

14 A. Yes, ma'am.

15 Q. And tell us what this is.

16 A. This is the agreement between Balch & Bingham and SEC.

17 Q. And what was the date of that agreement?

18 A. November 22, 2013.

19 MS. MARK: And can we turn to page 6 of the agreement,  
20 please?

21 Q. And do you recognize your signature as principal for  
22 Southeast Engineering & Consulting?

23 A. Yes, ma'am, that's my signature.

24 Q. And do you recognize the witness?

25 A. That's Scott Phillips.

1 MS. MARK: Can we go back to the first page of the  
2 contract, please. And the first paragraph under  
3 "Recitals." That's good. Thank you.

4 Q. Mr. Glenn, looking at the first paragraph there under  
5 the heading "Recitals" -- do you see where I'm referring  
6 to?

7 A. Yes, ma'am.

8 Q. It references that "The consultant possesses experience  
9 in environmental, regulatory, and political matters in  
10 Alabama." Do you see that?

11 A. Yes, ma'am.

12 Q. Can you explain for me what that means?

13 A. It means that the consulting firm and the members of  
14 that firm have specific professional training and  
15 experience in environmental regulatory matters so -- and  
16 regulations, as well as understanding the political,  
17 government, and organization in Alabama.

18 Q. Okay. Were you doing work for Balch, a certain client  
19 of Balch's?

20 A. Yes, ma'am.

21 Q. And who was that client?

22 A. That client was ABC Coke and Drummond Company.

23 Q. Thank you. Can you tell me was SEC paid pursuant to  
24 that contract?

25 A. Yes, ma'am.

1 Q. All right. And where were invoices sent?

2 A. Invoices were sent to Balch, I believe, with a copy to  
3 Drummond.

4 Q. All right. Who was responsible for invoicing on behalf  
5 of SEC?

6 A. Bill Vaughan.

7 Q. And do you know how your time was accounted for in  
8 working on that contract?

9 A. Yes, ma'am. Every day we would write down our time of  
10 what we worked on, and then monthly we would collect that  
11 and create an invoice.

12 Q. So would you keep up with your records for your time?

13 A. Yes, ma'am, I would.

14 Q. And do you know who paid invoices pursuant to this  
15 contract?

16 A. The payments came directly from ABC Coke/Drummond. I'm  
17 not sure which one of those, but....

18 Q. Okay. Who at SEC was primarily responsible for the work  
19 on the contract with Balch?

20 A. That was Scott Phillips and myself.

21 Q. Can you tell us what type of work you did on the  
22 contract?

23 A. The primary work that I did was some technical analysis  
24 and data analysis of some of the sampling data as well as  
25 reading through technical reports and offering suggestions

1 and interacting with ADEM.

2 Q. And then can you tell us what Scott Phillips's role on  
3 the contract was? What was he doing?

4 A. Yes, ma'am. Scott Phillips would provide very similar  
5 technical analysis and review of information as well as  
6 reading reports and providing opinions of those. He would  
7 also interact with external entities such as City of  
8 Birmingham.

9 Q. Who was the primary contact at Balch that you worked  
10 with on this contract?

11 A. Initially it was David Moore.

12 Q. And when David Moore -- do you recall when he left  
13 Balch?

14 A. I'm sorry, I don't.

15 Q. Okay. After he was no longer at Balch, who was your  
16 primary contact?

17 A. Primary contact was Joel Gilbert.

18 Q. And who was your primary contact at Drummond?

19 A. Drummond, it was Blake and Curt Jones. Blake Andrews  
20 and Curt Jones were the primary contacts.

21 Q. Let's talk about you mentioned that you'd submit  
22 invoices to -- I think you said they were sent to Balch and  
23 Drummond.

24 (Government's Exhibit 127 was referenced.)

25 Q. And I'm going to pull up Government's Exhibit 127 and

1 have you just look at the first page here. Do you  
2 recognize this as an invoice to Balch from SEC?

3 A. Yes, ma'am, I do.

4 Q. All right. And looking at just that first invoice,  
5 what's the date of the invoice?

6 A. February 1, 2014.

7 Q. All right.

8 MS. MARK: Can we turn to page 2 of the invoice?  
9 Looking at page 2, can we highlight the "Labor" box,  
10 please?

11 Q. All right, sir. Mr. Glenn, looking at this, can you  
12 tell us, looking at the first entry there for January of  
13 2014 where it says "Resource," there's some initials. Is  
14 that you?

15 A. "OTG." Yes, ma'am, that's me.

16 Q. And there's a description out to the side. Was this a  
17 description of work that you did for that particular pay  
18 period?

19 A. Yes, ma'am, it is.

20 Q. All right. And looking down, who is the next individual  
21 who submitted an entry?

22 A. That is Scott Phillips.

23 Q. And who are the next two individuals?

24 A. That is Patrick Phillips and Bill Vaughan.

25 Q. All right. And finally the bottom, it says

1 Specialist III. Can you tell us what the Specialist III  
2 was?

3 A. That was Catrena Norris Carter.

4 Q. Who is Catrena Carter?

5 A. Catrena Carter was a resource that we hired to help go  
6 attend community meetings and observe what was going on in  
7 the community.

8 Q. All right. Looking there at the description for  
9 Specialist III, it says "Prepare for, participate in, and  
10 report on community and grassroots meetings."

11 A. Yes, ma'am.

12 Q. What are grassroots meetings?

13 A. Grassroots meetings are meetings with community groups  
14 or neighborhood associations. I commonly use that word  
15 when not referring to an actual city government.

16 Q. Okay. And this is for the period of January of 2014?

17 A. Yes, ma'am, that's correct.

18 Q. Do you recall if this was at the beginning of the  
19 contract, one of the early invoices that was sent to Balch  
20 for work on this contract?

21 A. Yes, ma'am, I believe it was.

22 Q. So is it fair to say that from early in the relationship  
23 that SEC had someone who was doing this community and  
24 grassroots-type work?

25 A. Yes, ma'am.



1 (Government's Exhibit 147 was referenced.)

2 Q. Do you have in front of you Government's Exhibit 147?

3 A. Yes, ma'am, I do.

4 Q. Do you recognize Exhibit 147?

5 A. Yes, ma'am.

6 MS. MARK: Your Honor, at this time I would offer  
7 Government's Exhibit 147.

8 THE COURT: Any objections?

9 MR. ESSIG: No, Your Honor.

10 MR. McKNIGHT: No objection.

11 MR. BLOOMSTON: No, sir, Your Honor.

12 THE COURT: Thank you all. 147 is received and may be  
13 published.

14 (Government's Exhibit 147 was admitted into evidence.)

15 Q. (BY MS. MARK:) All right, Mr. Glenn. I want to focus  
16 your attention on what is the second email on the page. It  
17 says on January 7 of 2014. And can you tell us is this an  
18 email from you to Catrena Carter?

19 A. Yes, ma'am.

20 Q. And I know you have the full string there in front of  
21 you, but does this appear to be a conversation that you and  
22 Catrena Carter had about her working for SEC?

23 A. Yes, ma'am.

24 Q. All right. There in the center of the paragraph, can  
25 you read for us that second sentence where it says "I got

1 the okay"?

2 A. "I got the okay for \$2500 per month to start."

3 Q. Okay. What can you tell us about that?

4 A. I don't recall the specifics of what I was -- what I was  
5 referring to there as far as who I would have gotten the  
6 okay from.

7 Q. Okay. But was that for Catrena Carter to begin doing  
8 work as a consultant for SEC?

9 A. Oh, yes, ma'am.

10 Q. And would she be paid \$2500 a month?

11 A. Yes, ma'am.

12 Q. What period of time did Catrena Carter consult with SEC?

13 A. She started around that time and consulted for several  
14 years.

15 Q. Why did SEC hire Catrena Carter?

16 A. We were a small company that didn't have a lot of  
17 resources, so we would reach out to resources to fill gaps  
18 for things such as attending meetings and things such as  
19 that.

20 Q. Did Catrena Carter have experience doing community  
21 outreach?

22 A. Yes, ma'am. It was my understanding she did.

23 Q. And was she -- did she have connections in the community  
24 where she was able to go to those meetings and interface  
25 with people in the community?

1 A. Yes, ma'am.

2 Q. And did she do that?

3 A. Yes, ma'am.

4 Q. So in 2014, did you learn that EPA was considering  
5 listing the North Birmingham Superfund site on the NPL  
6 list?

7 A. Yes, ma'am.

8 Q. All right. Did you, in your work for Balch on this  
9 contract, did you interface with the director of ADEM about  
10 that NPL listing?

11 A. Yes, ma'am.

12 Q. Was that one of the tasks that you were tasked with, to  
13 interface with the director?

14 A. Yes, ma'am.

15 Q. And do you recall that at some point, the governor  
16 actually appointed ADEM as the designated on behalf of the  
17 state to interface with EPA on that issue?

18 A. I do recall that.

19 Q. Is that part of the process for the state, the governor  
20 to designate ADEM to interface with EPA?

21 A. I'm not sure about that, about the formal process there.

22 Q. But that did happen in this case?

23 A. Yes, ma'am.

24 (Government's Exhibit 148 was referenced.)

25 Q. Do you have Government's Exhibit 148 there in front of

1     you?

2     A.   Yes, ma'am, I do.

3     Q.   Do you recognize Government's Exhibit 148?

4     A.   Yes, ma'am.

5           MS. MARK:   Your Honor, at this time I would offer  
6   Exhibit 148.

7           THE COURT:   Any objections?

8           MR. BLOOMSTON:   No objections.

9           MR. ESSIG:   No objection.

10          MR. McKNIGHT:   No objection.

11          THE COURT:   Thanks, everyone.   148 is in and may be  
12   published.

13   (Government's Exhibit 148 was admitted into evidence.)

14   Q.   (BY MS. MARK:)   Mr. Glenn, looking at this email, let's  
15   first start with who is the email from?

16   A.   It's from Steve McKinney.

17   Q.   And what's the date of the email?

18   A.   June 27, 2014.

19   Q.   And who is it to?

20   A.   It is to me.

21   Q.   Who's copied?

22   A.   Scott Phillips and Joel Gilbert.

23   Q.   And what was the subject of this particular email?

24   A.   "ADEM Concurrence with NPL Listing."

25   Q.   I'm going to ask you before we get to the content of

1 this email if you will turn to what is the second page.

2 There appears to be a letter attached to this particular  
3 email. Do you see that letter?

4 A. Yes, ma'am, I do.

5 Q. What is the date of that letter?

6 A. June 11, 2014.

7 Q. Do you remember this particular letter?

8 A. Yes, ma'am.

9 Q. Okay. Why do you remember this letter?

10 A. It was sent to me. This is where ADEM interacted with  
11 EPA regarding the site.

12 Q. Looking down into the body of the email, there is a  
13 sentence there towards the top that begins with "ADEM does  
14 not object." Do you see where I'm referring to?

15 A. Yes, ma'am.

16 Q. Can you read that sentence for us?

17 A. "ADEM does not object to EPA's proposal to list the site  
18 on the NPL, provided EPA is able to reach an agreement with  
19 the potentially responsible parties to provide adequate  
20 funding for the cleanup efforts."

21 Q. Did you understand that by this letter that ADEM was  
22 providing what may be called a conditional concurrence on  
23 the listing of the NPL?

24 A. Yes, ma'am, that's an appropriate way to frame that.

25 Q. All right. So let's go back to page 1 of this

1 particular document. And this appears to be an email from  
2 Steve McKinney where he is forwarding a copy of that  
3 letter; is that correct?

4 A. Yes, ma'am.

5 Q. All right. And can you read for us what Mr. McKinney  
6 stated in that email?

7 A. He said "See the attached letter obtained today. When  
8 you pursue information about this topic with ADEM  
9 personnel, please seek any documentation on the request for  
10 concurrence that exists and, in particular, any scoring of  
11 the site that has been done."

12 Q. Can you explain for us what type of information you were  
13 seeking from the director based on this email?

14 A. Based on this email, I would have been looking for any  
15 information regarding the exchange between EPA and ADEM  
16 around ADEM's -- the request for ADEM to concur with the  
17 listing, including the technical scoring of the site.

18 Q. And was that part of your role in working with Balch on  
19 this particular contract to try to go and meet with and  
20 gather information from ADEM?

21 A. Yes, ma'am.

22 Q. So did you go meet with the director?

23 A. I don't recall.

24 Q. Okay. How often would you go and meet with Director  
25 LeFleur?

1 A. Approximately once a month or once every other month  
2 depending on schedules.

3 Q. When did you go meet with the director, would you report  
4 that information back to Balch?

5 A. Yes, ma'am.

6 Q. Who would you report that information to at Balch?

7 A. Primarily Joel Gilbert and Steve McKinney.

8 Q. What was Steve McKinney's role in the contract?

9 A. I'm not sure if he had a specific role in the contract.

10 Q. And with respect to this representation of Drummond, did  
11 you meet with Steve McKinney and Joel Gilbert regarding the  
12 contract you had to do consulting work?

13 A. Yes, ma'am. Steve McKinney and Joel Gilbert were both  
14 lawyers that worked for Balch working on this issue.

15 Q. All right. When you would meet with Director LeFleur,  
16 would you tell him that you were there and that you were  
17 consulting with Drummond and Balch on these matters?

18 A. Yes, ma'am.

19 Q. And why would you do that?

20 A. I just -- I consider, then and now, Lance a friend, and  
21 I wanted to be always very upfront about who I was  
22 representing if I was bringing a matter before him.

23 Q. Did you consider that important to make sure he knew who  
24 you were representing or who you were consulting with?

25 A. Yes, ma'am, to me that was important, yes, ma'am.

1 Q. Do you recall in July of 2014 that a petition was filed  
2 with EPA by GASP?

3 A. Yes, ma'am, I'm not sure of the date, but I do recall  
4 that.

5 Q. You do recall a petition --

6 A. Yes, ma'am.

7 Q. -- to expand into the Tarrant area?

8 A. Yes, ma'am.

9 Q. Did Balch also use SEC to do consulting work with  
10 respect to that GASP petition?

11 A. Yes, ma'am, we did.

12 Q. In your role on that contract, did you also interface  
13 with Director LeFleur about the GASP petition?

14 A. Yes, ma'am.

15 (Government's Exhibit 149 was referenced.)

16 Q. Do you have in front of you what is Government's  
17 Exhibit 149?

18 A. Yes, ma'am, I do.

19 Q. All right. Can you take a look at that and let me know  
20 if you recognize Government's Exhibit 149?

21 A. Yes, ma'am.

22 MS. MARK: Your Honor, we would offer Government's  
23 Exhibit 149.

24 MR. BLOOMSTON: No objection.

25 MR. ESSIG: No objection, Your Honor.



1 MR. McKNIGHT: No objection.

2 THE COURT: Thanks, everyone. 149 is received and may  
3 be published.

4 (Government's Exhibit 149 was admitted into evidence.)

5 Q. (BY MS. MARK:) Mr. Glenn, I'm actually going to ask you  
6 to turn to the second to last page. We're going to read  
7 this one from the bottom up. I know with emails like this,  
8 the chain starts on the back page.

9 A. Yes, ma'am.

10 Q. So if I can get you to turn to what appears to be the  
11 first email in this particular string. We'll pull up that  
12 email.

13 A. Yes, ma'am.

14 Q. Who is this email from?

15 A. It's from Lance LeFleur.

16 Q. And that's the director we've been discussing?

17 A. Yes, ma'am.

18 Q. And what's the date?

19 A. September 16, 2014.

20 Q. And who is this email to?

21 A. Gina McCarthy and Heather McTeer Toney. And Gwen  
22 Fleming.

23 Q. Are those three individuals with EPA?

24 A. They were with EPA at that time.

25 Q. At that time.

1 A. Yes, ma'am.

2 Q. And what was the subject of email?

3 A. "35th Avenue Birmingham NPL Listing."

4 Q. And where it says "Administrator McCarthy," what role  
5 did Gina McCarthy have at EPA?

6 A. She was the administrator of the U.S. Environmental  
7 Protection Agency.

8 Q. At headquarters in D.C.?

9 A. Yes, ma'am.

10 Q. Looking at the first paragraph here, there is a  
11 reference to that the NPL listing would be placed on the  
12 Federal Register. Do you see that?

13 A. Yes, ma'am.

14 Q. Can you tell us what that means?

15 A. The NPL listing process will take two steps. One is to  
16 propose a site, and it goes in the Federal Register when  
17 that happens, and the second is to finalize a site, and  
18 that is another entry in the Federal Register once EPA has  
19 made the decision to finalize the site.

20 Q. Looking at this email, does it appear that Director  
21 LeFleur has learned that the 35th Avenue was to be placed  
22 on the Register proposed for NPL listing?

23 A. Yes, ma'am.

24 Q. Is that fair?

25 A. Yes, ma'am.

1 Q. Okay. And there in the second paragraph, is Director  
2 LeFleur expressing the nonconcurrence by ADEM?

3 A. Yes, ma'am.

4 Q. You see where I'm referring to?

5 A. Yes, ma'am.

6 Q. All right. Now, I want to, if we can back out, we're  
7 going walk up through this email as best we can.

8 A. Okay.

9 Q. The next email appears to be where Director LeFleur cc'd  
10 or forwarded a copy of his response to the administrator to  
11 the governor. It says cc to Governor Bentley?

12 A. Yes, ma'am. It says that.

13 Q. If we can turn to the next page. And there at the  
14 bottom, where it says "begin forward message"?

15 A. Yes, ma'am.

16 Q. Does it appear that Director LeFleur then forwarded the  
17 message to Steve McKinney, David Roberson, and yourself?

18 A. Yes, ma'am, it does.

19 Q. And what's the date of that forward?

20 A. September 16, 2014.

21 Q. Can you tell me why would Director LeFleur forward to  
22 you, Steve McKinney, and David Roberson his communications  
23 with EPA?

24 MR. ESSIG: Objection. Speculation.

25 THE COURT: If you know, you may answer.

1 A. Will you ask the question again? I'm sorry.

2 MS. MARK: Sure. I can.

3 Q. Why did you receive this email?

4 MR. ESSIG: Same objection.

5 A. Lance was just providing us information.

6 Q. (BY MS. MARK:) Okay. So let's move up the chain a  
7 little further.

8 MS. MARK: And we'll have to go up to the next page, if  
9 we can. Little further.

10 Q. There appears to be an email starting there on  
11 September 16, 2014 from Scott Phillips. Do you see that?

12 A. Yes, ma'am, I do.

13 Q. All right. And is it an email to you?

14 A. Yes, ma'am.

15 Q. All right. And let's -- tell me what that email says to  
16 you, just the first part.

17 A. It says "Trey, I was thinking I would send the email  
18 message below to Steve. What do you think, and should I  
19 copy the full team?"

20 Q. Who is Steve in that particular context?

21 A. That would be Steve McKinney.

22 Q. Okay. And looking down -- you have the full document in  
23 front of you.

24 MS. MARK: If we can back out -- it may be difficult  
25 since it splits the page.

1 Q. But can you read for us the proposed email that Scott  
2 Phillips was suggesting to send to Steve McKinney?

3 A. Yes, ma'am. "It would seem that we need to determine  
4 the mayor's position on this and see if we can get him to  
5 respond with comments to the proposed listing. I believe  
6 we have 60 days from the Federal Register publication date,  
7 so we do have a little time, but we likely need to think  
8 through the best commenters and the contents of their  
9 comments. As you know, the comments from PRPs will not  
10 carry the same weight as those from others. Comments from  
11 others, like the mayor, the governor, city business  
12 leaders, congressional delegation, et cetera, are possible  
13 commenters that could make a difference. However, in my  
14 experience, unless there is significant technical argument  
15 or alternative method for cleanup, example, state-led or  
16 PRP-led, for the commenter to refer to, it will be  
17 difficult for any real pressure to have the EPA change the  
18 listing now that they have announced it. Let me know if  
19 you would like us to put forward any concepts or strategy  
20 positions. Thanks, Scott."

21 Q. Thank you. Looking at this email, now that we know kind  
22 of where it came from, the forwarding of that based on the  
23 director's email to EPA, does this relate to, first, the  
24 comment period that would start once the NPL listing was  
25 proposed?

1 A. Yes, ma'am, it does.

2 Q. Okay. Tell us what that comment period is.

3 A. Once something is published in the Federal Register,  
4 there is an open comment period for individuals to provide  
5 written comments to the Environmental Protection Agency to  
6 consider for future decision-making.

7 Q. All right. Starting from the top of that email, it  
8 references the proposed email to send to Steve McKinney.

9 "It would seem we need to determine the mayor's position."  
10 Do you see where I'm referring to?

11 A. Yes, ma'am.

12 Q. Which mayor is that in reference to?

13 A. That would be Mayor Bell.

14 Q. And why would you need to determine Mayor Bell's  
15 position?

16 A. I'm not sure what -- why Scott did that.

17 Q. Okay. Looking a little further down in the body of the  
18 email, there is a sentence that begins with "comments from  
19 others like the mayor, the governor, city, business  
20 leaders, and congressional delegation." Do you see where  
21 I'm referring to?

22 A. Yes, ma'am, I do.

23 Q. It says "are all possible commenters that could make a  
24 difference"?

25 A. Yes, ma'am.

1 Q. Can you tell me what that means? Why would comments  
2 from those particular types of individuals make a  
3 difference?

4 A. EPA considers comments from numerous parties. So the  
5 more individuals that provide comments allow for more of an  
6 opportunity for it to be discussed at the Environmental  
7 Protection Agency to consider the decision.

8 Q. Was Scott Phillips suggesting that the mayor, governor,  
9 elected officials, that their comments would carry weight?

10 MR. ASBILL: Objection. Speculation.

11 THE COURT: If you know, you may answer.

12 A. I mean, his email speaks for itself on that. It said it  
13 could make a difference.

14 Q. (BY MS. MARK:) Do you recall that there was an effort  
15 to get public officials or elected officials to comment on  
16 the NPL listing?

17 A. From this email, yes.

18 Q. But do you recall that going forward, as y'all were  
19 preparing and helping with preparing comments, that there  
20 was an effort to get different elected officials to submit  
21 comments to the NPL listing?

22 A. I don't recall specific content of the comments and the  
23 context they would be insofar as whether it was the NPL  
24 listing or something else. So I don't recall that  
25 specifically.

1 Q. All right. If we can move -- let me, before we move on,  
2 there's a reference to -- let's see. "It will be difficult  
3 for any real pressure to have EPA change the listing." Do  
4 you see where I'm referring to?

5 A. Yes, ma'am.

6 Q. Why would it be difficult to put pressure on the EPA to  
7 change the listing?

8 A. This appears to be Scott's opinion that once EPA has  
9 proposed something, that it will be difficult to change  
10 their mind.

11 Q. All right.

12 Can we now go up to the next email.

13 And did you reply to Scott's email?

14 A. I did. Yes, ma'am.

15 Q. And tell us what you said.

16 A. "I think this is good."

17 Q. All right. So did you agree with that suggestion, that  
18 he send this email on to Steve McKinney?

19 A. Oh, yes, ma'am.

20 Q. All right. And if we can go up to the top email in this  
21 chain, and tell us what this is. Is this an email also  
22 from you?

23 A. It is from me responding to Scott's question about does  
24 he want me to send it or him to send it. And I said "Why  
25 don't you try it? I've been beating on them lately. It



1 would probably help to come from you."

2 Q. Can you tell us what that means when you say "I've been  
3 beating on them lately"? Tell me what you refer to there.

4 A. What I would have referred to -- what those words would  
5 mean to me is that I have been talking to the client about  
6 wanting to do more work for them.

7 Q. Need to do more what?

8 A. Work for them.

9 Q. Okay. Was there any discussion or consideration of  
10 alternative approaches to responding to EPA?

11 A. Not that I recall specifically.

12 (Government's Exhibit 163 was referenced.)

13 Q. Do you have in front of you Government's Exhibit 163?  
14 Is it already in evidence?

15 A. No, it's here.

16 Q. It is here?

17 A. Yes, ma'am.

18 Q. Looking at Government's Exhibit 163, do you recognize  
19 this letter?

20 A. Yes, ma'am.

21 Q. And is this a letter from the governor to Director  
22 LeFleur?

23 A. Yes, ma'am, it is.

24 MS. MARK: Your Honor, we would offer Government's  
25 Exhibit 163.

1 MR. McKNIGHT: No objection.

2 MR. BLOOMSTON: No objection.

3 MR. ESSIG: No objection, Your Honor.

4 THE COURT: Thank you all. 163 is received and may be  
5 published.

6 (Government's Exhibit 163 was admitted into evidence.)

7 Q. (BY MS. MARK:) Let's start, Mr. Glenn, with just what  
8 this is. Is this a letter from Governor Bentley?

9 A. Yes, ma'am.

10 Q. Can you tell us what the date is of the letter?

11 A. August 25, 2014.

12 Q. All right. And who is it to?

13 A. It is to Director Lance LeFleur.

14 Q. All right.

15 MS. MARK: If we can pull up the second paragraph of  
16 this letter.

17 Q. Do you see there in the center of that paragraph the  
18 sentence that begins with "As such"?

19 A. Yes, ma'am, I see that.

20 Q. Do you mind reading that sentence for us?

21 A. "As such, I am requesting that your department become  
22 fully engaged in both of these matters to ensure that the  
23 state's and these cities' interests are fully protected and  
24 that whatever may result from these initiatives are  
25 supported in both law and fact."

1 Q. Mr. Glenn, did you see a draft of this letter before it  
2 was sent?

3 A. I don't recall that.

4 Q. Do you know who wrote it?

5 A. Looks like Governor Bentley.

6 Q. That is who you believe wrote it?

7 A. Oh, I'm sorry. That's who signed it.

8 Q. That's who signed it. Were you still interacting with  
9 ADEM on behalf of Balch and Drummond at this particular  
10 time in August of 2014?

11 A. Yes, ma'am I was.

12 Q. Do you recall how ADEM responded to the letter?

13 A. I don't recall.

14 (Government's Exhibit 151 was referenced.)

15 Q. Do you have Government's Exhibit 151 in front of you?

16 A. Yes, ma'am.

17 Q. All right. Do you recognize Exhibit 151 as an email  
18 from you?

19 A. I do, yes, ma'am.

20 MS. MARK: Your Honor, we would offer Government's  
21 Exhibit 151.

22 MR. BLOOMSTON: No objection.

23 MR. ESSIG: No objection.

24 MR. McKNIGHT: No objection, Your Honor.

25 THE COURT: Thanks, everyone. 151 is received and may

1 be published.

2 (Government's Exhibit 151 was admitted into evidence.)

3 Q. (BY MS. MARK:) All right. Mr. Glenn, we'll start from  
4 the top on this one. Who is this email from?

5 A. It's from me.

6 Q. And what's the date?

7 A. October 17, 2014.

8 Q. And who did you send this email to?

9 A. Sent it to Blake Andrews, Curt Jones, Steve McKinney,  
10 Joel Gilbert, Mark Polling, Bob Mason, David Roberson, with  
11 a copy to Scott Phillips.

12 Q. And were those all individuals either working for Balch  
13 or for Drummond that were working on this matter?

14 A. Yes, ma'am.

15 Q. Looking down in this email -- is this typical that you  
16 would send emails to them with updates about the things  
17 that you were doing in consulting with Balch and Drummond?

18 A. Yes, ma'am.

19 Q. Looking at the paragraph that begins with the word  
20 "lastly." Do you see where I'm referring to?

21 A. Yes, ma'am.

22 Q. Can you read that for us?

23 A. "Lastly, with regard to ADEM and Lance's reaction to the  
24 governor's letter, et cetera, he is continuing to calm down  
25 and will be in a better frame of mind about this."

1 Q. Okay. What was Director LeFleur's reaction to the  
2 governor's letter?

3 A. Based on this, his reaction was negative.

4 Q. Okay. And is that specifically the letter we just  
5 looked at, the August 25, 2014 letter that was sent to  
6 ADEM?

7 A. That is my understanding, yes, ma'am.

8 Q. Were you tasked with trying to calm ADEM director down  
9 about that letter?

10 A. I don't recall being tasked to calm him down. I was  
11 tasked just to talk to him and interact with him.

12 Q. Okay. But clearly you had either discussions with or  
13 something came up in your meetings with ADEM about that  
14 letter?

15 A. Yes, ma'am.

16 Q. Okay. And you reported back to Balch and Drummond that  
17 ADEM, the director, was continuing to calm down?

18 A. Yes, ma'am.

19 (Government's Exhibit 150 was referenced.)

20 Q. Do you have Government's Exhibit 150 in front of you?

21 A. Yes, ma'am, I do.

22 Q. Do you recognize Exhibit 150?

23 A. Yes, ma'am.

24 MS. MARK: Your Honor, at this time I would offer  
25 Government's Exhibit 150.

1 THE COURT: Any --

2 MR. BLOOMSTON: No objection.

3 MR. ESSIG: No objection, Your Honor.

4 MR. McKNIGHT: No objection.

5 THE COURT: Thanks, everyone. 150 is received and may  
6 be published.

7 (Government's Exhibit 150 was admitted into evidence.)

8 Q. (BY MS. MARK:) Let's start with the first top part of  
9 this email.

10 A. Yes, ma'am.

11 Q. Mr. Glenn, can you tell us who is this email from?

12 A. It is from Scott Phillips.

13 Q. And who is it to?

14 A. It is to me with a copy to Scott Phillips.

15 Q. What's the date of the email?

16 A. October 2, 2014.

17 Q. What was the subject of this email?

18 A. "Note from Technical and Regulatory Review of EPA's HRS  
19 Document."

20 Q. All right. And can you tell us what -- the first part  
21 of this email to you from Scott, what is he communicating  
22 to you?

23 A. That these are his notes, his Evernote notes. "If you  
24 have any, please send it to me. Thanks, Scott."

25 Q. Now, looking down into the body of this email, does this

1 appear to be notes from Scott Phillips about a meeting with  
2 Balch and Drummond?

3 A. Yes, ma'am.

4 Q. There at the top left it references meeting at Balch &  
5 Bingham?

6 A. Yes, ma'am.

7 Q. Did y'all meet with Balch & Bingham and the Drummond  
8 folks at their office?

9 A. Someone from SEC did, yes, ma'am.

10 Q. And there's a reference there to ABC Coke, Drummond,  
11 Balch, and SEC?

12 A. Yes, ma'am.

13 Q. The first line says "Summary of Meeting With ADEM  
14 Director and Staff." Do you see that?

15 A. Yes, ma'am, I do.

16 Q. Who would have provided a summary of a meeting with  
17 ADEM?

18 A. That would -- I provided a lot of those. I'm not sure  
19 if I provided this or not, but it was very common for me to  
20 provide summary of meetings.

21 Q. And you met with ADEM for Balch and Drummond on this  
22 consulting contract?

23 A. Yes, ma'am.

24 Q. All right. So there it says "The next thing we have to  
25 do is file comments"?

1 A. Yes, ma'am.

2 Q. All right. And there's two -- it says "Strategically,  
3 there's two things to remember." Can you read for us  
4 strategically what the two things to remember are?

5 A. Yes, ma'am. "We will not change EPA's mind. We are  
6 trying to make sure they know that if they proceed that  
7 they possibly will be placed in a position that may reverse  
8 or slow down."

9 Q. And you have this document in front of you. If you look  
10 down through it, does it appear to then be technical  
11 comments about the technical aspects of the science and  
12 issues that y'all are responding to or -- in preparation  
13 for review and comments?

14 A. Yes, ma'am, it does.

15 Q. Can I turn your attention to page 3 of this email?

16 A. Yes, ma'am.

17 Q. On the last page, does it appear to have some action  
18 items?

19 A. Yes, ma'am, it does.

20 Q. Can you read those for us?

21 A. "Pursue getting all documents and touch base with Lance  
22 by TG, SM, and DR. (State of Alabama intends to be an  
23 appellant, and ADEM submits real, relevant and appropriate  
24 comments in opposition.)"

25 Q. Okay. Let me stop you right there. Where it says



1 "touch base with Lance," who is that referring to?

2 A. That's Lance LeFleur.

3 Q. That's the director?

4 A. Yes, ma'am.

5 Q. Who is TG?

6 A. That is me.

7 Q. Who is SM?

8 A. Steve McKinney.

9 Q. And who is DR?

10 A. David Roberson.

11 Q. Why were those three of you, you and Steve McKinney and  
12 David Roberson, why were the three of you tasked with  
13 touching base with Director LeFleur?

14 A. I don't recall specifically at that time why just the  
15 three of us were.

16 Q. Okay. The items in the parenthetical, "the State of  
17 Alabama intends to be appellant. AEMC submits real  
18 relevant and appropriate comments," are those the things  
19 that the three of you are to touch base with the director  
20 about?

21 A. That is certainly how this note -- how Scott's notes  
22 read, yes, ma'am.

23 Q. All right.

24 THE COURT: Ms. Mark, let's take a break here.

25 MS. MARK: Okay.

1 THE COURT: Ten minutes, members of the jury. I'm  
2 going to bring you guys back in promptly at 5 after 4:00.  
3 Please do not talk about the case during the break. Thank  
4 you.

5 (The following proceedings were had in open court  
6 outside of the presence and hearing of the jury.)

7 THE COURT: Mr. Glenn, you may step down, sir. You  
8 can't talk to anyone during the break about your testimony.  
9 We're in recess for the next 10 minutes, everyone.

10 Thank you.

11 (Recess.)

12 THE COURT: Is everyone ready? Karen, let's bring the  
13 jury in, please.

14 (The following proceedings were had in open court in the  
15 presence and hearing of the jury.)

16 THE COURT: Be seated, everyone. Thank you very much  
17 for the quick 10-minute break, members of the jury, and for  
18 being prompt.

19 Ms. Mark, you may continue with your examination.

20 MS. MARK: Thank you, Your Honor.

21 Q. Mr. Glenn, just before we concluded, we were talking  
22 about Government's Exhibit 150, which was the notes that  
23 were sent to you from Scott Phillips. Do you remember  
24 that?

25 A. Yes, ma'am.

1 Q. Okay. And we looked at those action items at the end of  
2 the document that said "touch base with the director"?

3 A. Yes, ma'am.

4 Q. Okay. I want to, if I can draw your attention to  
5 Government's Exhibit 127, which may come up on the screen  
6 here, to page 29, please.

7 All right. Mr. Glenn, can you see that there on your  
8 screen?

9 A. Yes, ma'am.

10 Q. All right. Is this a copy of one of the SEC bills -- we  
11 looked at one earlier -- to Balch & Bingham for services on  
12 the contract?

13 A. Yes, ma'am.

14 Q. What is the period of time for this particular, the --  
15 when the labor occurred? When was this work performed?

16 A. In October of 2014.

17 Q. Okay. So the email we were just looking at is when --  
18 during around that period of time, October 2014?

19 A. Yes, ma'am, that's correct.

20 MS. MARK: All right. Can we scroll down a little bit?  
21 I want to show Mr. Glenn's time. Thank you.

22 Q. Looking there at your time, it says "Prepare for and  
23 participate in meetings with ADEM on October 1, 2, and 16."  
24 Do you see where I'm referring to?

25 A. Yes, ma'am.

1 Q. Okay. So would you have written down and kept in your  
2 journal of what you were doing on this contract that you  
3 met with ADEM the 1st, the 2nd, and 16th?

4 A. Yes, ma'am, that would likely meant I both prepared for  
5 and met with them, or at least prepared for some days and  
6 met with them some days.

7 Q. All right. And October 2, if you have Government's  
8 Exhibit 150 still there in front of you, that's the same  
9 date of the notes that you got from Scott Phillips?

10 A. Yes, ma'am, that is the same date.

11 Q. Okay. So is it fair to say that following that meeting,  
12 you would have gone and met with Director LeFleur?

13 A. I'm not -- I'm not sure when this -- I'm not sure when  
14 the notes were from exactly, the time of that, but it is  
15 certainly fair to say I would have gone and met with  
16 Director LeFleur, yes, ma'am.

17 Q. And would that have been based on directions that you  
18 were being given from the attorneys at Balch and Drummond  
19 about what they wanted you to do for your consulting work,  
20 to meet with the director?

21 A. Yes, ma'am.

22 Q. Was that discussed that you would go meet with the  
23 director?

24 A. Yes, ma'am.

25 Q. And looking at this billing, there appears to be three

1 meetings for that particular month?

2 A. Yes, ma'am.

3 Q. Do you recall that there were discussions that the  
4 attorneys at Balch and Drummond were unhappy with the  
5 director's position?

6 A. I don't recall specifically being unhappy with his  
7 position. I recall some confusion about exactly what was  
8 ADEM's position on concurrence or nonconcurrence.

9 Q. All right. Did they want ADEM to get more involved?

10 A. Absolutely, yes, ma'am.

11 Q. Did they want ADEM to get engaged in the process?

12 A. Yes, ma'am.

13 Q. Okay. Was that discussed?

14 A. Yes, ma'am.

15 Q. With Balch and with Drummond?

16 A. Yes, ma'am.

17 Q. Okay. And were you tasked with then going back to meet  
18 with Director LeFleur to communicate that message?

19 A. Yes, ma'am.

20 Q. That they wanted the director to get more involved?

21 A. Yes. We wanted to make sure he was well aware of all  
22 the facts of the issue so that he could take whatever  
23 appropriate action. But yes, ma'am, I was there. I was  
24 raising all this to his attention if it wasn't already  
25 raised there.

1 Q. All right. And was that part of your role, as a  
2 consultant, to take that message to the director?

3 A. Yes, ma'am.

4 Q. And did you do that -- for example, in this month you  
5 did it on three different occasions?

6 A. Yeah. I'm not sure of the exact content of the  
7 meetings, but, yes, it looks like I met with him three  
8 different times this month, yes, ma'am.

9 Q. Okay. Was part of the overall strategy to solicit  
10 public officials to also oppose EPA?

11 A. We didn't discuss soliciting of public officials. I'm  
12 not recalling those conversations.

13 Q. Were there discussions of meeting with public officials  
14 and asking them to submit comments for the NPL comment  
15 period?

16 A. Yes, ma'am, there was definitely meetings with public  
17 officials to educate them on this. I can't recall specific  
18 requests for them to comment or not.

19 Q. Were you involved in any of those particular  
20 interactions?

21 A. I'm not recalling any meetings that I was at where we  
22 were asking a public official to submit comments, but -- I  
23 don't recall that.

24 Q. Do you recall that there were discussions of having the  
25 governor submit comments?

1 A. I don't recall those discussions, no, ma'am.

2 Q. What about with respect to ADEM's comments? I know in  
3 the Exhibit 150 we were looking at a minute ago --

4 A. Yes, ma'am.

5 Q. -- there was a suggestion that ADEM submit real and  
6 relevant comments. Do you recall that?

7 A. Yes, ma'am.

8 Q. All right. Did you meet with ADEM to discuss with ADEM  
9 that they submit comments?

10 A. I don't specifically recall what the -- any discussion  
11 was with them about whether they submit comments or not,  
12 but I know we discussed the facts and these issues here  
13 several times, yes, ma'am. I don't recall a specific  
14 request for them to submit comments.

15 Q. Of ADEM?

16 A. Of ADEM, yes, ma'am.

17 Q. You did not -- you're saying you didn't make that  
18 request?

19 A. I don't recall that.

20 Q. But you met with ADEM on a frequent basis?

21 A. Yes, ma'am, I did that.

22 Q. Did you assist in preparing some of the comments, the  
23 technical comments and otherwise, on behalf of ABC Coke and  
24 Drummond that were submitted on the NPL?

25 A. Yes, ma'am, I did.

1 Q. Can you tell us what you did to assist with those NPL  
2 comments?

3 A. It was both initially analysis of the comments  
4 themselves, some data analysis and then formatting and  
5 editing of comments.

6 Q. Did you also participate in an assist with the comments  
7 on behalf of BCA?

8 A. Yes, ma'am.

9 Q. And what is BCA?

10 A. BCA is the Business Council of Alabama.

11 Q. Do you have a role with BCA?

12 A. At that time, I was a consultant to BCA, yes, ma'am.  
13 And a member.

14 Q. Okay. And what capacity were you consulting with BCA?

15 A. I was assisting the environment and energy committee and  
16 those related issues.

17 Q. All right. And did you coordinate with Joel Gilbert  
18 about BCA comments that would be submitted in response to  
19 the NPL comment period?

20 A. I believe I did, yes, ma'am.

21 Q. I'm going to shift gears and let's talk about Oliver  
22 Robinson. Do you know Oliver Robinson?

23 A. Yes, ma'am.

24 Q. How do you know him?

25 A. I had met him years ago. I can't remember what function



1 it was at, but I had met him.

2 Q. All right. And under what circumstances would you have  
3 met Oliver Robinson?

4 A. I believe it was a charity golf tournament I saw him at.  
5 Either that or I could have seen him at the State House.  
6 (Government's Exhibit 10 was referenced.)

7 Q. I'm going to show you Government's Exhibit 10, which I  
8 believe is already in evidence. Can you see Exhibit 10 on  
9 the screen?

10 A. Yes, ma'am.

11 Q. All right. And what is the date of this email?

12 A. It is December 10, 2014.

13 Q. And who is it from?

14 A. It's from Joel Gilbert.

15 Q. And did you receive this email? Are you one of the  
16 recipients?

17 A. Yes, ma'am.

18 Q. All right. And what's the subject of the email?

19 A. "EPA Meeting on Friday."

20 Q. All right. Looking down in this email, it reference  
21 there about the middle of the page, "Representative  
22 Robinson has agreed to meet with them on Friday." Is that  
23 in reference to EPA?

24 A. It appears to be, yes, ma'am.

25 Q. Okay. What do you know about Oliver Robinson meeting

1 with EPA officials?

2 A. I don't know anymore than this, what's written here.

3 Q. Was there an effort to -- we discussed earlier the email  
4 that Scott Phillips proposed sending to Steve McKinney. Do  
5 you remember that?

6 A. Yes, ma'am.

7 Q. And there was a suggestion in that email that it would  
8 be a good idea to have officials, congressional, public  
9 officials to submit comments?

10 A. Yes, ma'am.

11 Q. Okay. Was part of the strategy to get elected officials  
12 to also comment or oppose EPA?

13 A. I don't remember if we -- if the strategy was  
14 specifically to get them to comment, but I know it was to  
15 get them engaged in the issue to provide feedback. But as  
16 far as specific comments on the Federal Register notice, I  
17 can't recall if that was the subject matter of any  
18 conversations. But certainly to get them engaged in the  
19 issue was discussed.

20 Q. Looking at this email on December 10 of 2014, did you  
21 know of any connection between Oliver Robinson and either  
22 the Balch law firm or Drummond?

23 A. No, ma'am.

24 Q. Did you know that Oliver Robinson was being considered  
25 by Balch and Drummond to do consulting work?

1 A. No, ma'am.

2 Q. Did you know he was being considered to do community  
3 outreach?

4 A. No, ma'am.

5 Q. Was SEC, at that time, still doing community outreach  
6 for Balch?

7 A. Yes, ma'am.

8 Q. And was that for their client Drummond?

9 A. Yes, ma'am.

10 Q. How often would you interact with Joel Gilbert regarding  
11 the North Birmingham Superfund Site?

12 A. I would consider it pretty frequently. It would depend  
13 on the activities going on around, but it could easily be  
14 weekly, sometimes more frequent depending on the activity.

15 Q. So looking at this particular period of time in  
16 December of 2014, this was during the period of time that  
17 the comment period was open; is that right?

18 A. Not sure if it was open or just closing at this time.

19 Q. Do you recall that the comment period closed on  
20 January 20 of 2015?

21 A. I don't recall that, but it sounds -- I think there was  
22 an extension to it, so I'm not sure the exact date, yes,  
23 ma'am.

24 Q. Was the comment period an active period of time where  
25 you would have interacted with Joel Gilbert regularly on

1 this consulting contract?

2 A. Yes, ma'am.

3 Q. Were y'all actively discussing the drafts of those  
4 comments?

5 A. Yes, ma'am.

6 Q. Was there active, you know, actions to get others to  
7 submit comments? For example, we just talked about BCA.  
8 Was there an ongoing effort to get other businesses,  
9 organizations --

10 A. Yes.

11 Q. -- individuals, public officials to submit comments?

12 A. Yes, ma'am.

13 Q. Okay. So would you agree that was a period of time that  
14 you would have had frequent interactions with Joel Gilbert?

15 A. Oh, yes, ma'am. I think so.

16 Q. What about David Roberson, how often would you interact  
17 with David Roberson?

18 A. I would interact with David Roberson, depending on the  
19 issues, frequently as well. But he was not a primary point  
20 of contact on this consulting work though. As I said,  
21 David and I have been friends for some time and we would  
22 talk a lot.

23 Q. Did you ever receive an update from anyone about how  
24 Oliver Robinson's meeting went with the EPA?

25 A. I don't -- don't recall. I could have.

1 Q. Do you know if the meeting was recorded?

2 A. I've heard a report of that prior to all this hitting  
3 the news, yes, ma'am.

4 Q. Okay. Well, let's go back to December of 2014. At that  
5 time, did you know that the meeting with EPA between Oliver  
6 Robinson and EPA was recorded?

7 A. No, ma'am, I did not.

8 Q. Let's talk about the environmental commission for a  
9 minute.

10 A. Okay.

11 Q. How often does the environmental commission hold  
12 meetings?

13 A. Approximately every two months.

14 Q. All right. And is there a public comment period?

15 A. Yes, ma'am.

16 Q. All right. Can you tell us, what's the process for  
17 requesting to speak at the public comment period?

18 A. You would submit a request with some information  
19 approximately two weeks before. I don't remember the exact  
20 date, but sometime before, you would submit a request to  
21 address the commission.

22 Q. All right. And is that required in order to actually  
23 address the commission?

24 A. That's my understanding it is required, yes, ma'am.

25 Q. Do you recall, in December of 2014, that an organization

1     called GASP made a presentation to the commission?

2     A.   Yes, ma'am.

3     Q.   Do you know that or do -- excuse me.  Do the commission  
4     members often receive a copy of a presentation before the  
5     presenter actually makes their presentation?

6     A.   Yes, ma'am, I'm aware that that is normal.

7     Q.   All right.  And does the commission require persons who  
8     are going to present at the commission to submit those  
9     materials in advance?

10    A.   I'm not sure of the specifics, but they do ask for  
11    information to be submitted ahead of time, yes, ma'am.

12    Q.   Were you provided with a copy of the PowerPoint  
13    presentation that GASP presented at the December commission  
14    meeting before they submitted their presentation?  Before  
15    they actually appeared at the commission meeting?

16    A.   Yes, ma'am.

17    Q.   All right.

18    A.   My recollection is I did.

19    Q.   And how did you obtain a copy of their presentation in  
20    advance?

21    A.   I don't recall that.

22    Q.   All right.  Did Scott Phillips give you a copy of it?

23    A.   He very well could have.  I just don't recall  
24    specifically.

25    Q.   And just to be clear, Scott Phillips, you told us

1 earlier, was a member of the commission?

2 A. Yes, ma'am.

3 Q. Okay. So would he have received a copy of the  
4 presentation, as a member of the commission, before the  
5 commission meeting?

6 A. Yes, ma'am, he would have.

7 Q. And did he provide it to you?

8 A. I recall that I got a presentation. I can't  
9 specifically speak is it this one you're asking about. But  
10 I do recall getting one.

11 Q. All right. Did you provide that PowerPoint  
12 presentation, GASP's PowerPoint presentation, did you  
13 provide it to Joel Gilbert?

14 A. If it's the one where -- that I'm remembering, yes,  
15 ma'am, I did.

16 (Government's Exhibit 13 was referenced.)

17 Q. Okay. Do you have there in front of you Government's  
18 Exhibit 13?

19 A. I don't have -- oh, yes, I do.

20 Q. Okay.

21 A. Yeah.

22 Q. Take a look at that, and do you recognize Government's  
23 Exhibit 13?

24 A. Oh, yes, ma'am. It's what you're asking about. Yes,  
25 ma'am.

1 Q. Is that an email to you on December 10?

2 A. Yes, ma'am, it is.

3 MS. MARK: Your Honor, we would offer Government's  
4 Exhibit 13.

5 MR. BLOOMSTON: Your Honor, we object on grounds of  
6 Federal Rule 403.

7 THE COURT: All right. Let me see the exhibit,  
8 Ms. Mark. Consistent with my standard practice, please  
9 move on to the next topic. I'll come back to this. Thank  
10 you.

11 Q. (BY MS. MARK:) All right, Mr. Glenn. I think you  
12 stated that you did receive a copy of the PowerPoint  
13 presentation; is that correct?

14 A. Yes, ma'am, that's correct.

15 Q. All right. And did you forward it on to Joel Gilbert?

16 A. Yes, ma'am, I recall doing that.

17 Q. Why did you do that?

18 A. It was just relevant information.

19 Q. What do you mean by that?

20 A. It was information about the issues that we were -- that  
21 we were talking about about the NPL in Birmingham.

22 Q. Okay.

23 A. So I thought it would be of interest to him.

24 Q. What type of information was contained in that  
25 PowerPoint presentation?



1 A. I don't -- I don't specifically recall that, but --

2 Q. Who was it on behalf of? Who was making the  
3 presentation?

4 A. GASP.

5 Q. And did you understand that GASP was an organization  
6 that had filed the petition to expand into Tarrant?

7 A. Yes, ma'am.

8 Q. Okay. And so was GASP planning to make a presentation  
9 at the commission in December of 2014?

10 A. Yes, ma'am.

11 Q. And did you provide that presentation to Joel Gilbert in  
12 advance of the presentation -- of the meeting?

13 A. I recall doing that, yes, ma'am. I don't see the email  
14 here, but I recall doing that.

15 (Government's Exhibit 20 was referenced.)

16 Q. All right. Do you have Government's Exhibit 20 in front  
17 of you?

18 A. Yes, ma'am.

19 Q. All right. Do you recognize Government's Exhibit 20?

20 A. Yes, ma'am.

21 Q. All right.

22 MS. MARK: Your Honor, we would offer Government's  
23 Exhibit 20.

24 MR. BLOOMSTON: No objection.

25 MR. McKNIGHT: No objection.

1 MR. ESSIG: No objection, Your Honor.

2 THE COURT: Thank you all. 20 is received and may be  
3 published.

4 (Government's Exhibit 20 was admitted into evidence.)

5 Q. (BY MS. MARK:) All right, Mr. Glenn. Looking at  
6 Government's Exhibit 20, let's start with the bottom half  
7 of this email. We'll read up on this one. Here we go.  
8 What is -- who is this email from?

9 A. It's from Joel Gilbert.

10 Q. And who is it to?

11 A. To Scott Phillips, me, with a copy of Steve McKinney and  
12 David Roberson.

13 Q. And can you tell us what is the date of this email?

14 A. December 11, 2014.

15 Q. All right. And what does this email say?

16 A. It says "See attached. Please provide to interested  
17 parties."

18 Q. And can you tell us what was attached to this document?  
19 We can turn to the first page of the attachment, please.

20 A. It is a white paper regarding observations of GASP's NPL  
21 presentation.

22 Q. All right. What is the title there at the top?

23 A. "GASP's December 12, 2014 NPL Presentation to the AEMC  
24 Lacks Credibility."

25 Q. You called this a "white paper." What is a white paper?

1 A. That's a term I use just to refer to a writing that's  
2 not in the form of a letter or other type report.

3 Q. All right. And looking through this document, does it  
4 appear to walk through the GASP presentation and provide  
5 talking points in response to that presentation?

6 A. It does appear to walk through that presentation, yes,  
7 ma'am, and provide information on it.

8 Q. Okay. Let's turn back to page 1 of Exhibit 20.

9 A. Okay.

10 Q. And we'll look at the top email. This appears to be an  
11 email from Scott Phillips?

12 A. Yes, ma'am.

13 Q. Just a couple hours later on December 11?

14 A. Yes, ma'am.

15 Q. All right. And who is it to?

16 A. It's to me.

17 Q. All right. And can you read for us just what Scott  
18 Phillips said to you?

19 A. It says "Trey, you may should send this to Lanier and  
20 see if he will have Debi send to all the commissioners.  
21 Scott."

22 Q. And who is Lanier?

23 A. That was Lanier Brown.

24 Q. And what role did Lanier Brown have with the commission?

25 A. He was a member, and I believe at that time he was the

1 chair of the commission.

2 Q. All right. And do you know who Debi is?

3 A. Debi, that would be referring to Debi Thomas. She was  
4 the executive assistant that supported the commission.

5 Q. Okay. And so did you, based on this email from Scott  
6 suggesting that you send this to Lanier, did you send it to  
7 Lanier Brown?

8 A. I did, yes, ma'am.

9 Q. Okay. Why would you send this instead of Scott?

10 A. Not sure. He asked me to send it, and I did.

11 Q. Was that because Scott was a member of the commission?

12 A. I'm not sure.

13 (Government's Exhibit 21 was referenced.)

14 Q. All right. Do you have Government's Exhibit 21? It  
15 should be the next document in your stack.

16 A. Yes, ma'am.

17 Q. All right.

18 THE COURT: Before you do that, I've reviewed  
19 Government's Exhibit 13. The objection on 403 is  
20 overruled. 13 is admitted over the defendant's objection.

21 (Government's Exhibit 13 was admitted into evidence.)

22 Q. (BY MS. MARK:) All right. Before we go to 21, let's go  
23 back for a second to Exhibit 13 just so we can...

24 Mr. Glenn, looking at Government's Exhibit 13 there at  
25 the top, does this appear to be where Scott Phillips

1 forwarded to you a copy of the GASP PowerPoint  
2 presentation?

3 A. Yes, ma'am, it does.

4 Q. And you have that document there in front of you. Does  
5 it have attached to it a copy of the GASP PowerPoint  
6 presentation?

7 A. Yes, ma'am.

8 MS. MARK: If we can back out of that for just a  
9 second.

10 Let's move forward with Government's Exhibit 21. Is  
11 Government's Exhibit 21, I believe I've moved to be  
12 entered. Has that been received, Your Honor?

13 THE COURT: Any objections to 21?

14 MR. McKNIGHT: No, Your Honor, no objections.

15 MR. ESSIG: No objection.

16 THE COURT: 21 is received and may be published. Thank  
17 you all.

18 (Government's Exhibit 21 was admitted into evidence.)

19 MS. MARK: All right. You can highlight this whole  
20 one. Thank you.

21 Q. All right. Mr. Glenn, looking at Government's  
22 Exhibit 21, we'll read from the bottom up again. This  
23 bottom email appears to be from you; is that right?

24 A. That's correct.

25 Q. Okay. And what's the date of that email?

1 A. December 11, 2014.

2 Q. And what's the subject?

3 A. "GASP comments."

4 Q. And who is this email to?

5 A. Lanier Brown.

6 Q. All right. And can you tell us, what did you tell  
7 Lanier Brown?

8 A. "Attached are some talking points prepared by some  
9 industry representatives. Do you mind asking Debi to  
10 distribute to the commissioners?"

11 Q. All right. And looking at that document, if we can go  
12 to page 2, does this appear to be the same talking points  
13 that Joel Gilbert sent to you?

14 A. Yes, ma'am, it does appear to be that same white paper,  
15 yes, ma'am.

16 Q. All right. And so did you forward those on to Lanier  
17 Brown?

18 A. Yes, ma'am, I did.

19 Q. At Joel Gilbert's direction?

20 A. I think it was Scott's request. It was Joel to Scott,  
21 Scott to me, yes, ma'am.

22 Q. Joel's email to you, Government's Exhibit 20, says  
23 "Please provide to interested parties"?

24 A. Yes, ma'am.

25 Q. Did you consider Lanier Brown to be the interested party

1 that Joel Gilbert was referring to?

2 A. I'm not sure what he was referring to, but I know that's  
3 specifically what Scott had emailed to me.

4 Q. Okay. You didn't send it to anybody else?

5 A. I don't recall, but I could have.

6 Q. All right. Looking back at page 1 of Exhibit 21, it  
7 says in here "Attached are talking points prepared by some  
8 industry representatives."

9 A. Yes, ma'am.

10 Q. Do you see where I'm referring to that?

11 A. Yes, ma'am.

12 Q. Why did you say that this was prepared by some industry  
13 representatives?

14 A. I'm not sure why I chose those words at the time.

15 Q. All right. You stated earlier that when you would meet  
16 with Director LeFleur, that it was important to you to tell  
17 him that you were there on behalf of Drummond. Do you  
18 remember that?

19 A. Yes, ma'am.

20 Q. Why would you not have told Lanier Brown that this was  
21 from your client that you were consulting for, Drummond?

22 A. I'm not sure why I chose those words at the time. I  
23 didn't interact with Lanier Brown much. I did with Lance  
24 LeFleur a lot.

25 Q. And that was important to you with your interactions

1 with Lance LeFleur?

2 A. Yes, ma'am.

3 Q. To be up front with him about who you represented?

4 A. Yes, ma'am.

5 Q. Thank you. Mr. Glenn, when did you first learn that  
6 Oliver Robinson was going to appear before the commission  
7 at the next commission meeting in February?

8 A. I recall learning that before the meeting.

9 Q. Okay.

10 (Government's Exhibit 47 was referenced.)

11 Q. Can we look at Government's Exhibit 47? And we'll look  
12 at the bottom email first. Looking at this email, it is  
13 from Linda Shaper on February 10 of 2015, and it's to you  
14 and David Roberson. Do you see that?

15 A. Yes, ma'am, I do.

16 Q. And it copies Joel Gilbert?

17 A. Yes, ma'am.

18 Q. Did you know who Linda Shaper was?

19 A. I believe she was Joel's administrative assistant.

20 Q. Okay. And what was the subject of this email?

21 A. "Robinson Request to Provide Comments."

22 Q. And it says "Please see attached"?

23 A. Yes, ma'am.

24 Q. All right.

25 MS. MARK: Can we look at the attachment?



1 Q. And do you see there in front of you the request from  
2 Oliver Robinson to appear and speak at the February 20  
3 commission meeting?

4 A. I do, yes, ma'am.

5 Q. Do you know who wrote this letter?

6 A. I don't recall specifically this letter, who wrote it.

7 Q. What was the date of the commission meeting that Oliver  
8 Robinson was asking to appear at?

9 A. The AEMC meeting scheduled for February 20.

10 Q. Did you know that on February 6, 2015, that Oliver  
11 Robinson met with Joel Gilbert about this letter?

12 A. I can't say I recall that specifically, but it could be  
13 in my time sheets.

14 Q. All right. Did you know that Oliver Robinson was going  
15 to be a paid consultant by Balch and Drummond?

16 A. I did not know that.

17 Q. Did you know that Oliver Robinson was appearing at the  
18 direction of Joel Gilbert and David Roberson?

19 MR. ESSIG: Objection. Argumentative.

20 THE COURT: Overruled.

21 A. I did not know who -- what compelled him to -- I wasn't  
22 involved in those conversations as far as what compelled  
23 him to go before them, so I can't -- I don't think I can  
24 answer that, I'm sorry.

25 Q. (BY MS. MARK:) When you say "compelled him," who are

1 you referring to?

2 A. Oliver. I'm sorry. Oliver Robinson.

3 Q. And what did you believe Oliver was appearing -- was he  
4 appearing in his capacity as a legislator?

5 A. Based on this letter, I would have assumed that, yes,  
6 ma'am.

7 Q. Why did you receive a copy of this letter showing that  
8 he had submitted a request to appear at the commission?

9 A. Just seemed to be relevant information as before, just  
10 to make sure that I was aware or we were aware of what all  
11 was going on.

12 Q. What do you mean "relevant information"?

13 A. The fact that if somebody's going to talk before Lance  
14 and the commission, as someone who interacted with ADEM,  
15 which I did, that's good information for me to know.

16 Q. Did you know if his comments would be favorable?

17 A. No, can't say I do, no, ma'am.

18 Q. Were you asked to meet with Oliver Robinson to prepare  
19 him for his appearance at the commission?

20 A. I don't recall that, but if I did, it would certainly be  
21 in my time sheets.

22 (Government's Exhibit 129 was referenced.)

23 Q. I'm going to show you --

24 MS. MARK: Can we pull up Government's Exhibit 129 at  
25 BB-FED 326? If we can pull up the entry for February 11 of

1 2015, the second one, please?

2 Q. All right, Mr. Glenn. Looking at this entry, this is a  
3 Balch billing entry for February 11, 2015. And it  
4 references there -- that's Joel Gilbert's initials.

5 A. Yes, ma'am.

6 Q. Okay. "Prepare for and attend meeting with Oliver  
7 Robinson, Trey Glenn, Scott Phillips, and David Roberson  
8 regarding AEMC meeting and North Birmingham."

9 A. Yes, ma'am.

10 Q. Did you meet with Oliver Robinson, Scott Phillips, David  
11 Roberson, and Joel Gilbert to prepare Oliver for his AEMC  
12 meeting?

13 A. I don't specifically recall that meeting, but, again, if  
14 I did, it would be in my time sheets.

15 Q. Do you think you attended that meeting?

16 A. I'm sorry, I don't recall that morning.

17 Q. Do you recall that particular day?

18 A. I do, yes, ma'am.

19 Q. Can you tell us why it is that you recall that day?

20 A. That's the day we found my father deceased.

21 MS. MARK: If we can turn to Exhibit 127 at page 41.

22 Q. And looking at this time entry, this is the time entry  
23 for February of 2015?

24 A. Yes, ma'am.

25 Q. Okay. Do you see your time entry there at the top?

1 A. Yes, ma'am.

2 Q. And so this is the description of your time for the  
3 whole month of February 2015?

4 A. Yes, ma'am.

5 Q. All right. And there are meetings there at the  
6 beginning which reference "Prepare for and participate in  
7 calls and meetings with the legal team"?

8 A. Yes, ma'am.

9 Q. Okay. So did you meet with the legal team in February?

10 A. Yes, ma'am.

11 Q. And there are specific meetings there with ADEM on three  
12 specific dates, the 5th, 10th, and the 27th. Do you see  
13 that?

14 A. Yes, ma'am, I do.

15 Q. And looking there at -- continuing further, it says  
16 "Update on community matters, community involvement, and  
17 stakeholder strategy development."

18 A. Yes, ma'am.

19 Q. So that is your time that you submitted on this matter  
20 in February of 2015?

21 A. Yes, ma'am.

22 Q. Okay. So it does show that you had meetings with the  
23 legal team, correct?

24 A. It does, yes, ma'am.

25 Q. Would you have had any other time entries that would

1 have been specific to this meeting?

2 A. I'm not -- I'm not sure. I don't believe I would.

3 Although I may not have been doing a great job writing down  
4 my time that day.

5 Q. Okay. Fair enough, yes.

6 (Government's Exhibit 153 was referenced.)

7 Q. Can we turn to Government's Exhibit 153? Do you have  
8 Government's Exhibit 153 in your stack, Mr. Glenn?

9 A. Oh, I do, yes, ma'am.

10 Q. Okay. Take a look at and see if you recognize it.

11 A. Yes, ma'am.

12 Q. Okay.

13 MS. MARK: Your Honor, we would offer Government's  
14 Exhibit 153.

15 THE COURT: Any objections?

16 MR. BLOOMSTON: No objection.

17 MR. ESSIG: No.

18 MR. McKNIGHT: No objection.

19 THE COURT: Thank you all. 153 is received and may be  
20 published.

21 (Government's Exhibit 153 was admitted into evidence.)

22 Q. (BY MS. MARK:) All right. Mr. Glenn, let's start with  
23 the bottom email first. So we'll go first in time. And  
24 this is the very next day, on February 12, 2015?

25 A. Yes, ma'am.

1 Q. Who is this email from?

2 A. From Joel Gilbert.

3 Q. And who's it to?

4 A. Scott Phillips with a copy to David Roberson and me.

5 Q. All right. And what was the subject of the email?

6 A. "North Bham Community Activities."

7 Q. Okay. And looking at this email, can you read for us --  
8 let's just start with can you read this email to us?

9 A. Yes, ma'am.

10 "Scott, one thing that Trey had mentioned in passing and  
11 I thought we might discuss yesterday was Catrena's efforts  
12 and also the report you, Catrena, David, and I discussed a  
13 couple of months ago. Let's try to revisit this issue soon  
14 so we can begin developing an action plan involving her and  
15 coordinating with Oliver. I need to sit down with Oliver  
16 soon as well and get some feedback from him now that he has  
17 been involved for a few months and develop a plan going  
18 forward. I think our coordination and discussion prior to  
19 that discussion with Oliver would be very helpful.  
20 Thanks."

21 Q. All right. Let's start with the Catrena that is  
22 referenced there. Is that a reference to Catrena Carter?

23 A. Yes, ma'am.

24 Q. All right. And what efforts was Catrena engaged in with  
25 respect to this consulting work?

1 A. She was attending a community grassroots meeting and  
2 observing the conversations and reporting to us the  
3 happenings at the meetings.

4 Q. Okay. And it says "Let's try to revisit this issue soon  
5 so we can begin developing an action plan involving her and  
6 coordinating with Oliver." What do you know about Catrena  
7 coordinating with Oliver?

8 A. I'm not sure what this is specifically referring to.

9 Q. Did Catrena coordinate with Oliver?

10 A. I can recall one meeting that I was at where I believe  
11 Catrena was there the same day with Oliver. I'm not sure  
12 if they were both at the same time or not, but, yes, ma'am,  
13 I do remember that one, but I'm not -- don't recall any  
14 specific coordination between her and Oliver.

15 Q. All right.

16 A. Or her and any other officials.

17 Q. It says "I need to sit down with Oliver soon and get  
18 some feedback from him now that he's been involved for a  
19 few months." What do you know about Oliver being involved  
20 for a few months?

21 A. I had just observed the appearance before the AEMC and  
22 others.

23 Q. Did you understand that to be in reference to his  
24 appearance before the AEMC?

25 A. I didn't -- I can't say I had an opinion on this email.

1 Q. Okay. Well, my question is, what did you know about  
2 Oliver's involvement with Balch and Drummond at this time  
3 in February of 2015?

4 A. I knew he was one of the officials that was being talked  
5 to regarding this 35th Avenue and Tarrant issues.

6 Q. Did you understand him to also be a consultant for  
7 Drummond and Balch?

8 A. No, ma'am, I did not.

9 Q. What capacity did you understand that they were meeting  
10 with him?

11 A. I would assume that was as the elected official.

12 Q. Did you know whether Oliver was a paid consultant?

13 A. No, ma'am.

14 Q. Were you asked to introduce Oliver to Lanier Brown?

15 A. Yes, ma'am.

16 Q. Okay. And we've already talked about Lanier Brown was  
17 the chair of the environmental commission; is that right?

18 A. Yes, ma'am, that's correct.

19 Q. Who asked you to introduce Oliver Robinson and Lanier  
20 Brown?

21 A. I recall that was Joel Gilbert.

22 Q. All right. And why did he want you to introduce Oliver  
23 to Lanier Brown?

24 A. Because Lanier Brown -- I mean, Oliver was going to  
25 appear before the Environmental Management Commission in



1 the coming time, and my understanding was just to make sure  
2 they had met and knew who each other was.

3 Q. Okay. Did you help organize that meeting between Lanier  
4 Brown and Oliver Robinson?

5 A. I don't recall specifically if I did. The SEC assisted  
6 with that, though.

7 (Government's Exhibit 61 was referenced.)

8 Q. Do you have Government's Exhibit 61 there in front of  
9 you?

10 A. I do, yes, ma'am.

11 Q. All right. Will you take a look at 61 and see if you  
12 recognize it?

13 A. Okay. Yes, ma'am.

14 MS. MARK: Your Honor, we would offer Government's  
15 Exhibit 61.

16 THE COURT: Any objections?

17 MR. BLOOMSTON: One moment, please.

18 No objection.

19 MR. ESSIG: No objection.

20 MR. McKNIGHT: No objection.

21 THE COURT: Thanks, everyone. 61 is received and may  
22 be published.

23 (Government's Exhibit 61 was admitted into evidence.)

24 Q. (BY MS. MARK:) All right. Mr. Glenn, looking from the  
25 bottom of this email, we'll start with the --

1 MS. MARK: Yes, thank you. That will be perfect.

2 Q. The bottom chain appears to be an email on February 16  
3 of 2015. Do you see where I'm referring to?

4 A. Yes, ma'am.

5 Q. Actually, even further below that, there's an email at  
6 8:32 a.m. from Joel Gilbert.

7 A. Yes, ma'am.

8 Q. Does that appear to be the first email in the chain?

9 A. It does appear to be.

10 Q. Okay. And it says "Have you guys been able to get  
11 Oliver and Lanier connected?"

12 A. Yes, ma'am.

13 Q. All right. So looking up to the next email, it appears  
14 to be an email from you?

15 A. Yes, ma'am.

16 Q. In response to Joel Gilbert?

17 A. Yes, ma'am.

18 Q. All right. Tell us what you said to Joel Gilbert.

19 A. "I will be talking with Scott this afternoon and will  
20 check."

21 Q. All right. We can back out and go to the top email.

22 Did Joel Gilbert respond to your email?

23 A. Yes, ma'am, he did. "Great. Thanks. I will probably  
24 be seeing Oliver this afternoon. I was going to pass  
25 Lanier's contact info on to him so he can call him. Sorry

1 again about your dad."

2 Q. Okay. So did you understand that Joel was asking you  
3 and Scott Phillips to set up a meeting with Lanier?

4 A. Yes, ma'am.

5 Q. For Oliver to meet with Lanier?

6 A. Yes, ma'am.

7 (Government's Exhibit 62 was referenced.)

8 Q. And do you also have Government's Exhibit 62 there in  
9 front of you?

10 A. Yes, ma'am.

11 Q. Do you recognize Government's Exhibit 62?

12 A. Yes, ma'am.

13 MS. MARK: All right. I'll offer Government's  
14 Exhibit 62.

15 MR. BLOOMSTON: No objection.

16 MR. McKNIGHT: No objection.

17 MR. ESSIG: No objection.

18 THE COURT: Thanks, everyone. 62 is received and may  
19 be published.

20 (Government's Exhibit 62 was admitted into evidence.)

21 Q. (BY MS. MARK:) Mr. Glenn, this appears to be the same  
22 day, February 16 of 2015?

23 A. Yes, ma'am.

24 Q. And looking at that email, it looks like it's the same  
25 email we just saw from Joel Gilbert, February 16 at

1 8:32 a.m.?

2 A. Yes, ma'am.

3 Q. Okay. So let's look at the top email. It's from Scott  
4 to Joel Gilbert. Is that the same day, February 16?

5 A. Yes, ma'am.

6 Q. Okay. And were you also copied on that email?

7 A. I was, yes, ma'am.

8 Q. Can you read for us what that email says?

9 A. "I am waiting on a reply from Lanier, but tentatively we  
10 are on for Wednesday afternoon but may have to be somewhere  
11 other than the normal place because Oliver has dinner at  
12 Oceans at 6:00 p.m. Waiting for confirmation from Lanier  
13 and suggestion for place."

14 Q. Okay. So do you recall having this meeting with Oliver  
15 and Lanier? Did y'all get them together?

16 A. I do, yes, ma'am.

17 Q. Okay. Tell me about that.

18 A. I recall that Scott and I went to a meeting where Oliver  
19 and Lanier met. It was at some restaurant, I believe, in  
20 Mountain Brook.

21 Q. Okay. Was that at Daniel George?

22 A. Sounds right, yes, ma'am.

23 Q. Okay. And who all was present at that meeting?

24 A. My recollection is myself and Scott and Oliver Robinson  
25 and Lanier Brown.

1 Q. And how long did y'all meet?

2 A. I can't -- I don't recall that.

3 Q. Was this just drinks after work, a little get-together?

4 Can you --

5 A. Yes, ma'am.

6 Q. Can you describe for us that meeting?

7 A. Yes, ma'am. It was just drinks, and there's a little --  
8 I can remember the room, the little bar room area where it  
9 was at where there was, if I recall correctly, there was --  
10 I was sitting up at the bar area. There were some chairs  
11 on the ground, I think is where Oliver and Lanier were  
12 sitting and chatting.

13 Q. Did you report this particular sort of meeting or meet  
14 and greet, did you report that back to Joel Gilbert?

15 A. I am sure that Scott or I did.

16 Q. Do you know who paid for drinks that day?

17 A. Scott did.

18 (Government's Exhibit 154 was referenced.)

19 Q. Do you have Government's Exhibit 154 there in front of  
20 you?

21 A. Yes, ma'am, I do.

22 Q. Okay. Do you recognize Government's Exhibit 154?

23 A. Yes, ma'am.

24 Q. All right.

25 MS. MARK: Your Honor, I'd offer Government's

1 Exhibit 154.

2 THE COURT: Any objections?

3 MR. ESSIG: No objection.

4 MR. BLOOMSTON: No objection, Your Honor.

5 MR. McKNIGHT: No objection.

6 THE COURT: Thanks, everyone. 154 is received and may  
7 be published.

8 (Government's Exhibit 154 was admitted into evidence.)

9 Q. (BY MS. MARK:) All right. Mr. Glenn, we're going to  
10 start from the bottom again of this document.

11 A. Okay.

12 Q. If we pull up the bottom email, it's an email on  
13 February 19 of 2015 from Scott Phillips. Do you see that?

14 A. Yes, ma'am, I do.

15 Q. Can you tell us, what is this email? What is Scott  
16 Phillips telling Joel and David?

17 A. He's telling Joel and David there's a document to walk  
18 through regarding the community and stakeholder strategy.

19 Q. What is the community and stakeholder strategy?

20 A. My recollection is it was a document prepared that  
21 included several thoughts on the outreach to community and  
22 stakeholders.

23 Q. Okay. And why was Scott Phillips preparing a community  
24 and stakeholder strategy?

25 A. We were tasked to -- it's a service we were providing to

1 the client.

2 Q. Who tasked you with that?

3 A. That would be Balch & Bingham.

4 Q. Okay. Who specifically?

5 A. I can't recall specifically who would have tasked Scott  
6 or I to do that, but it would have been one of the  
7 attorneys there, I'm sure.

8 Q. Was that part of your consulting arrangement that we've  
9 been talking about with SEC and Balch?

10 A. Yes, ma'am.

11 Q. Okay. If we can -- one other thing. The February 19,  
12 is that the day before Oliver was supposed to speak at the  
13 commission on February 20?

14 A. I believe that's correct, yes, ma'am, if I remember the  
15 dates right.

16 Q. And if you can just look at this email -- we won't have  
17 to walk through all of the chain of this email. Does this  
18 appear to be you and Scott Phillips and Joel Gilbert and  
19 David Roberson trying to schedule that meeting?

20 A. It does.

21 (Government's Exhibit 161 was referenced.)

22 Q. Okay. Do you also have Government's Exhibit 161 in  
23 front of you?

24 A. I do, yes, ma'am.

25 Q. All right. Do you recognize Exhibit 161?

1 A. I do.

2 Q. And the attachment to it?

3 A. Yes, ma'am.

4 MS. MARK: All right. Your Honor, I'd offer  
5 Exhibit 161.

6 THE COURT: Any objections?

7 MR. ESSIG: No, Your Honor.

8 MR. BLOOMSTON: No objection.

9 MR. McKNIGHT: No objection.

10 THE COURT: Thanks, everyone. 161 is received and may  
11 be published.

12 (Government's Exhibit 161 was admitted into evidence.)

13 Q. (BY MS. MARK:) All right, Mr. Glenn. Looking at  
14 Exhibit 161, does this actually appear to be the same email  
15 we just looked at on February 19 of 2015?

16 A. It does, yes, ma'am.

17 Q. Okay. And it references that community stakeholder  
18 strategy?

19 A. That's correct.

20 Q. Is there an attachment to this email?

21 A. There is.

22 Q. And can you generally describe for us what is the  
23 attachment?

24 A. It is a PowerPoint regarding the community strategy.

25 Q. And do you know who prepared the PowerPoint?



1 A. I recall that Scott Phillips did.

2 Q. Okay. Was this something that Scott Phillips prepared  
3 for Balch and Drummond based on the consulting work that  
4 SEC was doing?

5 A. Yes, ma'am.

6 Q. Okay. Was it based on conversations that were had and  
7 discussions and meetings with Joel Gilbert and David  
8 Roberson?

9 A. I'm sure it was based on, yeah, the full spectrum of all  
10 discussions that occurred to date, yes, ma'am.

11 Q. Was this, basically, SEC presenting their suggestions  
12 for the community strategy?

13 A. Without looking, I'm not sure if it's the exact  
14 suggestions, but certainly a report on the community  
15 strategy. Bear with me. I'll look at it.

16 Q. Let's turn to page 2. We'll look at the first page of  
17 this PowerPoint presentation. So it says "Community  
18 Strategy, 35th Avenue Superfund Site, North Birmingham,  
19 Alabama"?

20 A. Yes, ma'am, that's correct.

21 Q. Okay. And was this a presentation that Scott Phillips  
22 made to Joel Gilbert and David Roberson?

23 A. I know it's one he sent to them, yes, ma'am.

24 Q. Okay. I'm going to turn your attention to a couple of  
25 pages in the PowerPoint.

1 MS. MARK: Can we go to page 6 of this document? It  
2 should be the "Current Resources."

3 Q. Do you see the "Current Resources" there in front of  
4 you?

5 A. I do, yes, ma'am.

6 Q. Okay. And what were the current resources that were  
7 available?

8 A. The Drummond team, ABC Coke team, Balch & Bingham team,  
9 Steve Bradley, and SEC team.

10 Q. Okay. Do you recall, when we looked at Government's  
11 Exhibit 154, that there was discussions about setting a  
12 meeting to talk about this Community and Stakeholder  
13 Strategy?

14 A. I do recall that, yes, ma'am.

15 Q. And that that meeting was to be set the following week?

16 A. Yes, ma'am, it appears.

17 Q. Does it appear that that meeting was set on Wednesday,  
18 February 25?

19 A. Based on the last email, that does appear to be the  
20 time.

21 Q. Okay. And would you agree with me that that would then  
22 be five days after Oliver Robinson appeared at the  
23 commission?

24 A. Yes, ma'am. If it happened that Wednesday, it would be  
25 five days after, yes, ma'am.

1 Q. All right. And were you present for this meeting?

2 A. I don't recall.

3 Q. You don't remember being at this meeting where Scott  
4 Phillips presented a PowerPoint to Joel Gilbert and David  
5 Roberson about community strategy?

6 A. I don't specifically recall, but if it's in my time  
7 sheet, I'm sure I was there.

8 Q. Let's talk about what the community outreach plan was  
9 going forward. We're looking at "These are the Current  
10 Resources."

11 A. Okay.

12 Q. Did you understand that these were the resources that  
13 were available? Looks like they're all referred to as  
14 teams. Were these the resources that were available to  
15 Balch and Drummond for Community and Stakeholder Strategy?

16 A. Yes, ma'am, that appears to be what Scott prepared.

17 Q. Did anyone ever tell you that Oliver Robinson was also a  
18 current resource that could be used for Community and  
19 Stakeholder Strategy?

20 A. No, ma'am, I don't recall that.

21 Q. Do you know of any role that Oliver Robinson played in  
22 community outreach?

23 A. We discussed the public comments, he did, and the  
24 meeting. But you're talking about outside of that?

25 Q. I'm talking about with respect to Drummond and Balch,

1 was there any discussion of Oliver Robinson also being on  
2 this team?

3 A. No, ma'am, I don't recall that. No.

4 Q. So after Oliver Robinson had just spoken at the  
5 commission, at this meeting, where y'all were discussing  
6 the Community and Stakeholder Strategy, was there any  
7 discussion about how Oliver did at the commission?

8 A. I don't recall specifically this meeting.

9 Q. Did you, at that time in February of 2015, did you have  
10 any knowledge of Oliver Robinson being a paid consultant  
11 for Balch and Drummond on community outreach?

12 A. No, ma'am.

13 Q. Was SEC providing the services of community outreach?

14 A. We were providing some community outreach services, yes,  
15 ma'am.

16 (Government's Exhibit 76 was referenced.)

17 Q. Okay. Do you have Government's Exhibit 76 there in  
18 front of you?

19 A. Yes, ma'am.

20 Q. Do you recognize Exhibit 76?

21 A. Yes, ma'am.

22 MS. MARK: Your Honor, I'd offer Government's  
23 Exhibit 76.

24 MR. BLOOMSTON: No objection.

25 MR. ESSIG: No objection.

1 MR. McKNIGHT: No objection.

2 THE COURT: Thank you. 76 is received and may be  
3 published.

4 (Government's Exhibit 76 was admitted into evidence.)

5 Q. (BY MS. MARK:) Mr. Glenn, after Oliver Robinson made  
6 his comments before the commission on February 20, do you  
7 recall a follow-up letter that was sent to Director  
8 LeFleur?

9 A. I do.

10 Q. Okay. And tell me, why do you recall that letter?

11 A. My recollection is that Joel sent that letter and I made  
12 an edit to it.

13 Q. Okay. And is that this email we have in front of us?  
14 It is an email dated February 26 of 2015 from Joel Gilbert  
15 to you.

16 A. Yes, ma'am.

17 Q. All right. And what is Joel Gilbert sending you?

18 A. He is sending me a draft letter from Oliver to Lance  
19 LeFleur.

20 Q. And what does the bottom email there, what did  
21 Mr. Gilbert ask you?

22 A. "See attached. Thoughts? Too much? Does it need to be  
23 simplified?"

24 Q. All right. And did you respond to him?

25 A. I did.

1 Q. And what did you say?

2 A. I said "Minor edit." Looks like I changed -- I said  
3 "I'd either remove these sentences or at least say 'public  
4 officials'."

5 Q. All right. Let's look at the attachments --

6 A. Okay.

7 Q. -- which I believe is page 3 of this document.

8 Did you review this draft letter for Oliver Robinson to  
9 send to Director LeFleur?

10 A. Yes, ma'am.

11 Q. And did you make some suggested changes?

12 A. Yes, ma'am.

13 Q. And is that what we see there? Those are tracked  
14 changes, correct?

15 A. That's the -- correct, the underlined "or public  
16 officials" is tracked changes where I inserted that into  
17 the document.

18 Q. Tell us what you suggested be changed in this document.

19 A. I suggested that either remove the sentences or add the  
20 words "public officials."

21 Q. Let's read the sentence there that you are suggesting to  
22 change, beginning with "In addition." Can you read that  
23 for me?

24 A. I can, yes, ma'am. "In addition, I would certainly  
25 appreciate any other communications you may have had with

1 other interested parties or public officials wherein you  
2 and/or the department provide the state's position as to  
3 North Birmingham Superfund Site."

4 Q. All right. So you are suggesting to add the words "or  
5 public officials."

6 A. Yes, ma'am.

7 Q. Why were you suggesting that that change should be made  
8 to this letter?

9 A. To -- my assumption now is that my -- to clarify that we  
10 were requesting -- he was requesting, excuse me. This is  
11 from Oliver. Oliver was requesting any communications with  
12 all parties, both public officials and non-public  
13 officials.

14 Q. Now, you just said this was a letter from Oliver  
15 Robinson.

16 A. Yes, ma'am.

17 Q. But who actually sent you this letter?

18 A. Joel Gilbert.

19 Q. Why was Joel Gilbert sending you an email with a draft  
20 letter for Oliver Robinson to send?

21 A. I'm -- I'm not sure except for asking for my comments on  
22 it.

23 Q. What, if any, relationship did you understand Joel  
24 Gilbert had with Oliver Robinson?

25 A. Outside of helping with the letter, I'm not sure.

1 Q. Why were you asked to comment about this letter?

2 A. We were their consultant. That's what they paid us to  
3 do.

4 Q. You were the consultant, SEC?

5 A. Yes, ma'am.

6 Q. Were you aware of any relationship between Joel Gilbert  
7 and Oliver Robinson?

8 A. No, ma'am, outside of, obviously, a relationship about  
9 being able to suggest letters to send. Clearly, I was  
10 aware of that.

11 Q. Were you aware of any consulting relationship --

12 A JUROR: Your Honor, can we take a break?

13 MS. MARK: Yes, Your Honor, we have a juror.

14 THE COURT: That's fair. It's almost time for a break  
15 anyway. Let's take a quick 10-minute one. Let's plan to  
16 come back at 10 after, please. So that's 12 minutes.  
17 Please do not talk about the case during the break.

18 MR. BLOOMSTON: I was going to let the judge know that  
19 the juror was trying to get his attention.

20 THE COURT: Thank you.

21 (The following proceedings were had in open court  
22 outside of the presence and hearing of the jury.)

23 THE COURT: Mr. Glenn, you may step down, sir. Same  
24 drill. Can't talk to anyone about your testimony.

25 Thanks, everyone. We are in recess for the next 11



1 minutes. Ten after start, and then we'll go until 6:00.

2 (Recess.)

3 (The following proceedings were had in open court in the  
4 presence and hearing of the jury.)

5 THE COURT: Thanks, everyone. Be seated, please.

6 Members of the jury, we're going to go roughly 47  
7 minutes and stop at 6:00 or give or take a minute or two.

8 Ms. Mark, you may continue.

9 Q. (BY MS. MARK:) Mr. Glenn, I think when we concluded a  
10 minute ago, we were talking about a follow-up letter for  
11 Oliver Robinson to send to Director LeFleur.

12 A. Yes, ma'am.

13 Q. Do you remember that? Okay. Do you know if that letter  
14 was sent to Director LeFleur?

15 A. It is my understanding that it was sent.

16 Q. Do you recall being asked by Joel Gilbert to follow up  
17 on that particular letter to make sure that it was  
18 distributed to the commissioners?

19 A. Yes, ma'am, I do.

20 (Government's Exhibit 85 was referenced.)

21 Q. Do you have Government's Exhibit 85 there in front of  
22 you?

23 A. Yes, ma'am.

24 Q. All right. Do you recognize it?

25 A. I do.

1 MS. MARK: Your Honor, I'd offer Exhibit 85.

2 THE COURT: Any objections?

3 MR. BLOOMSTON: One moment.

4 MR. ESSIG: No objection.

5 MR. McKNIGHT: No objection.

6 MR. BLOOMSTON: No objection.

7 THE COURT: Thanks, everyone. 85 is received and may  
8 be published.

9 (Government's Exhibit 85 was admitted into evidence.)

10 Q. (BY MS. MARK:) All right, Mr. Glenn. Let's take a look  
11 at what this email is, starting with what is the date.  
12 We'll go from the bottom email up. What's the date of that  
13 email?

14 A. March 18, 2015.

15 Q. Who's it from?

16 A. It's from Joel Gilbert.

17 Q. Can you just read for us what that email from Joel  
18 Gilbert said?

19 A. "Did the AEMC receive a copy of Oliver's letter to  
20 Lance? If so, has there been any follow-up by Lance" --  
21 "follow-up with Lance" -- excuse me -- "by AEMC concerning  
22 Oliver's letter?"

23 Q. Okay. And did you respond to that email?

24 A. I did.

25 Q. And when did you do that?

1 A. On March 18, 2015.

2 Q. Okay. Same day?

3 A. Yes, ma'am.

4 Q. All right. And what did you tell Mr. Gilbert?

5 A. I said, "Yes. Will check on the latter."

6 Q. Why was it important for the commission members to  
7 receive a copy of the letter to Director LeFleur?

8 A. I believe they were copied on the letter.

9 Q. Okay. But if I'm reading this, it appears that  
10 Mr. Gilbert is asking you to make sure they got a copy. So  
11 why was it important for the commissioners to receive a  
12 copy of the letter to the director?

13 MR. ESSIG: Objection. Speculation.

14 THE COURT: If you know.

15 A. No, ma'am, except for they were copied on it.

16 Q. (BY MS. MARK:) Did you follow up with the commissioners  
17 to see if they had received this letter?

18 A. I don't specifically recall doing that.

19 Q. All right. But you told Joel Gilbert you would?

20 A. Yes, ma'am.

21 (Government's Exhibit 156 was referenced.)

22 Q. Do you have Government's Exhibit 156 there in front of  
23 you?

24 A. I do, yes, ma'am.

25 Q. All right. Do you recognize Exhibit 156?

1 A. Yes, ma'am.

2 MS. MARK: All right. Your Honor, I would offer  
3 Government's Exhibit 156.

4 THE COURT: Any objections?

5 MR. ESSIG: No, Your Honor.

6 MR. BLOOMSTON: No, sir.

7 MR. McKNIGHT: No objection.

8 THE COURT: Thanks. 156 is received and may be  
9 published.

10 (Government's Exhibit 156 was admitted into evidence.)

11 Q. (BY MS. MARK:) All right. Mr. Glenn, we've talked a  
12 little bit about that you provided updates in working on  
13 this contract with Balch and Drummond, that you'd provide  
14 them updates about the work you were doing?

15 A. Yes, ma'am.

16 Q. Is this an example of an email to Blake Andrews, Joel  
17 Gilbert, Curt Jones, copy to Scott Phillips, where you're  
18 providing an update on SEC's work?

19 A. Yes, ma'am.

20 Q. Is that a fair assessment of what this is?

21 A. Yes, ma'am.

22 Q. All right. What's the date of this particular email?

23 A. It is March 6, 2015.

24 Q. And there is a reference in the subject to "billing."  
25 Do you recall any particular time where Drummond actually

1 asked for more detail about billing?

2 A. I do, yes, ma'am.

3 Q. And is that what this is in response to?

4 A. It is.

5 Q. I want to draw your attention there to the center of  
6 this page where you provided an update on Community and  
7 Stakeholder Engagement. Do you see where I'm referring to?

8 A. I do, yes, ma'am.

9 Q. Can you read for us what the update was on the Community  
10 and Stakeholder Engagement?

11 A. I can. "Community - positioning, listening,  
12 coordinating with legal team regarding messaging and other  
13 specific actions. ADEM - active conversations with ADEM  
14 and EMC, including NPL and PA. City - active conversations  
15 with city officials (primarily in the positioning phase).  
16 And industry groups - active coordination with industry  
17 groups regarding EPA's actions and policy interpretations  
18 and consequences to industry and to the economy."

19 Q. So is this an update of activity as of March 6 of 2015?

20 A. That is correct, of the ongoing activity at that time.

21 Q. I'm going to ask you about a few of those things you  
22 just read. So for the community work, that positioning,  
23 listening, and coordinating with the legal team, who was  
24 doing that work?

25 A. That was primarily Catrena Carter, if I recall

1 correctly.

2 Q. And the positioning, listening, and coordinating, can  
3 you generally tell us what that would be?

4 A. Those words to me at the time would be more of a  
5 reactive early phase, not a direct messaging and outreach  
6 phase.

7 Q. And it says that there's coordinating regarding the  
8 messaging. Do you see that?

9 A. Correct.

10 Q. So it's listening and working on developing what the  
11 message would be? Is that fair?

12 A. Yes, ma'am.

13 Q. Okay. Looking at the next category for ADEM, and it  
14 references active conversations with both ADEM and the  
15 commission.

16 A. Correct.

17 Q. Who would be engaged in those conversations with ADEM  
18 and the commission?

19 A. From SEC, that would be myself.

20 Q. All right. And it references the NPL listing?

21 A. Yes, ma'am.

22 Q. And the preliminary assessment?

23 A. Correct.

24 Q. Was that the preliminary assessment of the Tarrant area?

25 A. I believe at this time it was, yes, ma'am.

1 Q. And was it important to Joel Gilbert to be having  
2 conversations with ADEM and the commission about the NPL  
3 and the preliminary assessment?

4 A. Yes, ma'am.

5 Q. Was that something that they asked you to do?

6 A. Yes, ma'am.

7 Q. Who is the reference to the city? What city is that in  
8 reference to, "active conversations with city officials?"

9 A. I don't recall that specifically, but I do recall  
10 conversations that the group had with either the City of  
11 Birmingham or City of Tarrant, but I'm not sure which one  
12 this is referring to specifically.

13 Q. Fair enough. What about industry groups? What type of  
14 industry groups was SEC interacting with?

15 A. It was probably primarily the Business Council of  
16 Alabama. I can recall some conversations with  
17 Manufacturers of Alabama as well.

18 (Government's Exhibit 157 was referenced.)

19 Q. Do you have in front of you what has been marked as  
20 Government's Exhibit 157?

21 A. Yes, ma'am.

22 Q. All right. Do you recognize Exhibit 157?

23 A. Yes, ma'am.

24 MS. MARK: All right. Your Honor, I would offer  
25 Government's Exhibit 157.

1 THE COURT: Any objections?

2 MR. MARTIN: No objection.

3 MR. ESSIG: No objection.

4 MR. McKNIGHT: No objection.

5 THE COURT: 157 is received and may be published.

6 (Government's Exhibit 157 was admitted into evidence.)

7 Q. (BY MS. MARK:) Let's start with the bottom email.

8 Mr. Glenn, does this again appear to be updates that you  
9 are providing to -- this one appears to go to Joel Gilbert  
10 and David Roberson and Blake Andrews and Curt Jones about  
11 activities ongoing by SEC?

12 A. Yes, ma'am.

13 Q. Okay. Looking at that bottom email, and what's the date  
14 of this email?

15 A. March 19, 2015.

16 Q. Okay. And can you just read for us what you reported to  
17 them?

18 A. "As we discussed earlier this week, I'm coordinating a  
19 time to meet with Lance. We are planning on midday today.  
20 My main two topics are PA and the report on his meeting  
21 with EPA earlier this week. Is there anything else that  
22 y'all have thought of that I need to add to that list?"

23 Q. All right. Was it important for you to gather  
24 information from Director LeFleur about the two topics you  
25 have there, one being the preliminary assessment of Tarrant



1 and the other one being his meetings with EPA?

2 A. Yes, ma'am.

3 Q. Okay. And did you do that?

4 A. I assume I did.

5 Q. All right. Moving up the chain in this email, is there  
6 a response from Joel Gilbert?

7 A. There is.

8 Q. Okay. And can you tell us what's the date of that  
9 response?

10 A. March 19, 2015.

11 Q. So same day?

12 A. Yes, ma'am.

13 Q. All right. And how did he respond to your email?

14 A. He responded "See if you can get his thoughts on meeting  
15 with AG and status of appeal."

16 Q. What do you know about the Director LeFleur meeting with  
17 AG? Let me ask you. I'm sorry. Is that a reference to  
18 the Attorney General?

19 A. I would assume that is.

20 Q. Is that how you would have interpreted that?

21 A. That's correct.

22 Q. Okay. What do you know about the Director LeFleur  
23 meeting with the Attorney General?

24 A. I can't recall specifically about that meeting or what  
25 that would have been.

1 Q. What would you have gone back to -- based on this email  
2 from Joel Gilbert, what would you have asked the director  
3 about his meeting with the Attorney General?

4 A. I don't recall if I specifically asked him about a  
5 meeting with the Attorney General, but if I would have, I  
6 would have asked him just, "How did your meeting with the  
7 Attorney General go?"

8 Q. Okay. And there's a reference to the status of the  
9 appeal. Did you talk to the Director LeFleur about the  
10 status of the appeal?

11 A. I don't specifically recall doing that.

12 Q. Was that something that Joel Gilbert was asking you to  
13 gather information from the director about?

14 A. Yes, ma'am.

15 Q. Did you continue to have regular contact with ADEM as  
16 you continued forward with this consulting arrangement?

17 A. Yes, ma'am.

18 Q. And did that continue into the summer and the fall of  
19 2015?

20 A. Yes, ma'am, I believe it did.

21 Q. And was that during the period of time that EPA and ADEM  
22 were working together to do the site inspection in the  
23 Tarrant area?

24 A. I believe that is the timeframes.

25 Q. And why did you continue to have interactions with ADEM

1     when they were moving into the Tarrant area?

2     A.   I -- the client wanted me to.

3     Q.   Okay. Did you provide feedback to the client about your  
4     interactions with ADEM?

5     A.   That was my standard practice, yes, ma'am.

6     Q.   Okay. And who would you provide that information to?

7     A.   Primarily Joel Gilbert.

8     (Government's Exhibit 159 was referenced.)

9     Q.   Do you have Government's Exhibit 159 in front of you?

10    A.   I do.

11    Q.   All right. Do you recognize it?

12    A.   I do.

13           MS. MARK: Your Honor, I'd offer Government's  
14    Exhibit 159.

15           THE COURT: Any objections?

16           MR. ESSIG: No objection.

17           MR. BLOOMSTON: No objection.

18           MR. McKNIGHT: No objection.

19           THE COURT: Thanks, everyone. 159 is received and may  
20    be published.

21    (Government's Exhibit 159 was admitted into evidence.)

22    Q.   (BY MS. MARK:) All right, Mr. Glenn. We're going to  
23    start with this email from the bottom. If we can go to the  
24    bottom chain first.

25    A.   Yes, ma'am.

1 Q. Can you tell me what is the date of this email?

2 A. It is October 8, 2015.

3 Q. So we've fast-forwarded over into the fall of 2015?

4 A. Yes, ma'am.

5 Q. Who is this email from?

6 A. It is from me.

7 Q. All right. And who is it to?

8 A. To Joel Gilbert, Steve McKinney, Blake -- I assume  
9 Andrews -- Curt Jones, David Roberson with a copy to Scott  
10 Phillips and Gerald Hardy.

11 Q. And what is the subject of the email?

12 A. "Meeting with ADEM."

13 Q. And looking down at the first line in that email, is  
14 this what appears to be a summary of a meeting that you had  
15 with Director LeFleur?

16 A. It is, yes, ma'am.

17 Q. And we looked at a couple of these. This is kind of how  
18 you would provide an update to them on meetings you'd had  
19 with the director?

20 A. Yes, ma'am.

21 Q. All right. I'm going to draw your attention to the  
22 second page of this email. And there is a bullet point  
23 about middle of the page that starts with "I discussed the  
24 fact." Do you see where I'm referring to?

25 A. Yes, ma'am, I do.

1 Q. All right. Can you read that particular bullet point to  
2 us?

3 A. "I discussed the fact that this appears to be a  
4 never-ending witch hunt by EPA against the regulated  
5 community and had many people concerned. I further  
6 referenced the Tarrant resolution asking for ADEM's  
7 involvement and the legislature's resolution asking for the  
8 same. I warned that taking a passive stance on this would  
9 likely not go over well with the aforementioned group and  
10 the governor's office."

11 Q. I want to ask you a few questions about this particular  
12 paragraph. First of all, where you reference there the  
13 resolutions -- there's a Tarrant resolution and a  
14 legislature's resolution.

15 A. Yes, ma'am.

16 Q. Are those resolutions from those various bodies, from  
17 Tarrant and from the state legislature?

18 A. Yes, ma'am.

19 Q. Let's talk about the one that's from the state  
20 legislature. Why did you refer to that state resolution,  
21 the State Joint House Resolution, to Lance LeFleur?

22 A. I don't recall specifically why I would have brought it  
23 up then.

24 Q. Was that something that you were bringing to his  
25 attention to let him know that the state representatives,

1 both the joint, the Senate and the House, had come together  
2 on a resolution opposing EPA?

3 A. Yes, ma'am. He probably already knew about it at that  
4 time. It had passed a while before. I believe we just  
5 talked about it.

6 Q. So in bringing that up to the director, was that a way  
7 to remind him and put pressure on him about the positions  
8 he was taking on behalf of the state?

9 A. I can't specifically recall what context we talked about  
10 it in except for clearly from my notes we talked about it.

11 Q. Well, let's look at the next sentence there. It says "I  
12 warned that taking a passive stance on this would likely  
13 not go over well." See where I'm referring to?

14 A. Yes, ma'am.

15 Q. Why would you warn the director about taking a passive  
16 stance?

17 A. I think of Lance LeFleur as a friend, as we've discussed  
18 before.

19 Q. Right.

20 A. And so -- and we've also discussed letters, for example,  
21 that the governor had sent just encouraging the ADEM  
22 director to get more engaged. And so I'm -- from reading  
23 this, I'm assuming I was just reminding him that this is  
24 how -- these are the type of activities that could happen  
25 as he's moving forward.

1 Q. Was it still the message of your client that they wanted  
2 ADEM to get more involved?

3 A. Oh, absolutely.

4 Q. Did they want to put pressure on the department to take  
5 action with respect to EPA?

6 A. Not sure about pressure, but they certainly wanted them  
7 to get involved and be very engaged.

8 Q. All right. When you say this would not go over well  
9 with groups, and you reference the governor's office --

10 A. Yeah.

11 Q. -- why did you reference the governor's office?

12 A. My recollection is, is that we had talked about the  
13 letter that the governor sent him that we discussed here in  
14 this room earlier.

15 Q. Way back at the beginning of your testimony when we  
16 talked about a letter that was sent to the governor -- from  
17 the governor to the director --

18 A. Yes, ma'am.

19 Q. -- that the director was not happy about?

20 A. Correct.

21 Q. So you reminded the director about what happened in that  
22 instance?

23 A. Yeah, I'm not sure if I -- yes, we talked about it. I'm  
24 not sure exactly the words I used, but clearly we discussed  
25 it in some fashion, based on these notes.

1 Q. And was that something that your client wanted you to  
2 do, to talk to the director about what kind of stance he  
3 was taking and asking him to get more involved?

4 A. I can't specifically recall if the client went to that  
5 level of detail on this letter or anything. I can't recall  
6 that.

7 Q. But they wanted the director to get more involved?

8 A. Absolutely, yes, ma'am.

9 Q. All right. Let's look down a little further on this  
10 second page where you have some suggested actions.

11 MS. MARK: And if we can capture it -- yes. Thank you.

12 Q. These are suggestions that you are making to the client;  
13 is that correct? I'm on the same email, page 2.

14 A. I've got it. I'm sorry. It appears to be, yes, ma'am.

15 Q. Okay. Let's look at this first suggestion that you  
16 made. It says "Educate parties on ADEM's stance and have  
17 them put pressure on ADEM to further interject themselves  
18 in the process."

19 A. Yes, ma'am.

20 Q. Do you see that?

21 A. Yes, ma'am.

22 Q. Why would you be suggesting that parties put pressure on  
23 ADEM?

24 A. It was very much the position we, including the  
25 consultant, wanted ADEM very much engaged in this process



1 because we wanted them to focus on sound science and good  
2 decision-making. So it was very clear we wanted ADEM  
3 actively engaged in this.

4 Q. And you have several bullet points under the  
5 "Suggestions for Putting Pressure on ADEM." Do you see  
6 where I'm referring to?

7 A. Yes, ma'am.

8 Q. Can you read for us what those bullet points are that  
9 you made as suggestions for how to put pressure on ADEM?

10 A. Yes, ma'am. "Governor's office, AG's office, City of  
11 Tarrant, legislature, Jabo as sponsor of the joint  
12 legislative resolution."

13 Q. And that's the same resolution we were talking about a  
14 moment ago?

15 A. Yes, ma'am.

16 Q. Can we go down to the very last line of this page where  
17 it says "Educate some key EMC members"? Do you see where  
18 I'm referring to?

19 A. Yes, ma'am.

20 Q. And it says "Educate some key EMC members on the stance  
21 being taken by ADEM and have them get involved"?

22 A. Yes, ma'am.

23 Q. Is that in reference to asking the commissioners to get  
24 more involved and interface with the director?

25 A. That would -- I'm not sure if it was asking them to

1 interface with the director, but it was certainly talking  
2 about members of the Environmental Management Commission.  
3 I can't recall what specific action we had thought about in  
4 writing this down.

5 Q. Okay. But you are suggesting that the commissioners  
6 also get more involved?

7 A. Yes, ma'am.

8 MS. MARK: Can we go back to the first page of this  
9 email. And if we can look up to the second email starting  
10 with the "on Thursday, October 5." Thank you.

11 Q. And is this in response to the email that you sent that  
12 we just looked through that was your summary of your  
13 meeting with the director?

14 A. Yes, ma'am.

15 Q. Who is this response from?

16 A. It's from Joel Gilbert.

17 Q. And what's the date of the response?

18 A. October 8, 2015.

19 Q. And can you read for us what Mr. Gilbert wrote?

20 A. He said "What was ADEM's response to your statement that  
21 if they took a passive stance, it probably would not go  
22 over well?"

23 Q. All right. And if we can go up to the next, top of the  
24 email. And is this your response to Joel Gilbert's  
25 question?

1 A. It is.

2 Q. Okay. And what did you tell him?

3 A. I said "Blank stare, then timid nod of the head. He  
4 seemed to acknowledge but still had the position that EPA  
5 is in charge of CERCLA."

6 Q. Can you tell us what you meant by this?

7 A. Those words to me would mean an acknowledgment by  
8 someone that, whereas they may agree, it was not their  
9 issue, and they weren't in full control of it.

10 Q. That if he took a passive stance, that there would be,  
11 potentially, consequences?

12 MR. ESSIG: Objection. Argumentative.

13 Q. (BY MS. MARK:) What does it mean if he takes a passive  
14 stance?

15 THE COURT: Thanks.

16 A. EPA was the primary, you know, driver in the CERCLA  
17 process. So he was getting a lot of conversation about  
18 ADEM being more involved in that, which certainly people in  
19 Alabama wanted.

20 Q. (BY MS. MARK:) And if he took a passive stance, it  
21 would not go over well?

22 A. Correct.

23 Q. Are you familiar with Get Smart Tarrant?

24 A. Yes, ma'am.

25 Q. What do you know about Get Smart Tarrant?

1 A. Just that it's a group that was involved in some  
2 outreach or conversations.

3 Q. Did you know of any connection between Get Smart Tarrant  
4 and Balch or Drummond?

5 A. I can't recall specific connections. I know that we had  
6 discussed and were aware of activities that they -- that  
7 Get Smart Tarrant had emailed out.

8 Q. Did you know whether Get Smart Tarrant was a consultant  
9 that was being paid by Balch and Drummond to do community  
10 outreach?

11 A. I did not specifically know that, no, ma'am.

12 Q. But you were continuing to have conversations with Joel  
13 Gilbert and David Roberson about this representation?

14 A. Yes, ma'am.

15 Q. All right. I'm going to turn your attention to -- we've  
16 talked about it a little bit, but the joint resolution.

17 A. Yes, ma'am.

18 Q. Can you tell us what, if any, involvement did you have  
19 in presenting that resolution to any members of the  
20 legislature?

21 A. My recollection is that I talked to Jabo Waggoner, who  
22 is my senator, about sponsoring this resolution.

23 Q. Did you actually provide him the resolution?

24 A. I can't recall if I gave it directly to him or someone  
25 at BCA did, but yes, ma'am, I was involved in that.

1 Q. And who did you get it from?

2 A. From Joel Gilbert.

3 (Government's Exhibit 88 was referenced.)

4 Q. Do you have Government's Exhibit 88 in front of you?

5 A. I do.

6 Q. All right. Do you recognize it?

7 A. I do.

8 MS. MARK: Your Honor, we would offer Government's  
9 Exhibit 88.

10 MR. ESSIG: No objection.

11 MR. McKNIGHT: No objection.

12 MR. BLOOMSTON: No objection, Your Honor.

13 THE COURT: Thanks, everyone. 88 is received and may  
14 be published.

15 (Government's Exhibit 88 was admitted into evidence.)

16 Q. (BY MS. MARK:) Mr. Glenn, looking at Government's  
17 Exhibit 88, is this an email to you from Linda Shaper?

18 A. It is, yes, ma'am.

19 Q. What's the date of that email?

20 A. May 20, 2015.

21 Q. All right. And I think we talked about this earlier,  
22 but do you know who Linda Shaper is?

23 A. Yes, ma'am.

24 Q. Okay. And who is she?

25 A. I believe that's Joel's administrative assistant.

1 Q. All right. And can you read for us what this email  
2 says?

3 A. It says "Joel's email is down right now, so I'm sending  
4 this doc for him."

5 Q. All right. And what's the subject of the email?

6 A. "Joint Resolution."

7 Q. And I believe you have the document in front of you.  
8 Does it have attached to it a draft of the joint  
9 resolution?

10 A. It does.

11 Q. Okay. Did you understand that this was drafted by  
12 Mr. Gilbert?

13 A. Or someone in his firm, yes, ma'am. I'm not sure who  
14 specifically did it.

15 Q. What did you do with the resolution?

16 A. My recollection is that I discussed this with the  
17 leadership at BCA. We then made some edits to it, if I  
18 recall correctly, and then put it forward to Jabo Waggoner  
19 to introduce.

20 Q. Why did you discuss it with BCA?

21 A. Because that was -- part of the discussion was I wanted  
22 to make sure that BCA was engaged in this process and  
23 agreed with these positions on behalf of all their members  
24 and supported such an action.

25 (Government's Exhibit 89 was referenced.)

1 Q. All right. Do you have Government's Exhibit 89 in front  
2 of you?

3 A. I do, yes, ma'am.

4 Q. Do you recognize it?

5 A. I do.

6 MS. MARK: Your Honor, we would offer Government's  
7 Exhibit 89.

8 MR. BLOOMSTON: No objection.

9 MR. ESSIG: No objection.

10 MR. McKNIGHT: No objection.

11 THE COURT: Thanks, everyone. 89 is received and may  
12 be published.

13 (Government's Exhibit 89 was admitted into evidence.)

14 Q. (BY MS. MARK:) Mr. Glenn, looking at this email, can  
15 you tell us who it's from?

16 A. It is from me.

17 Q. And what's the date?

18 A. May 21, 2015.

19 Q. So is that the next day following the email we just  
20 looked at?

21 A. Yes, ma'am, it is.

22 Q. Okay. So the day after Joel Gilbert's legal assistant  
23 sent it to you, what did you do with this draft resolution?

24 A. Well, as I say, I believe we made some edits to it, and  
25 then once that was done, we forwarded it to Sue Spears, who

1 I believe works with Jabo Waggoner.

2 Q. Okay. And is there a copy of the draft resolution  
3 attached to this email?

4 A. There is.

5 Q. Okay. And it references that it has to go to LRS. Can  
6 you tell us what is LRS?

7 A. LRS, if I remember correctly, is the Legislative  
8 Reference Service, and that's who takes language and puts  
9 it in the proper format to be presented to the legislature.  
10 (Government's Exhibit 92 was referenced.)

11 Q. Do you also have Government's Exhibit 92 in front of  
12 you?

13 A. I do, yes, ma'am.

14 Q. And do you recognize Exhibit 92?

15 A. I do, yes, ma'am.

16 MS. MARK: Your Honor, I would offer Government's  
17 Exhibit 92.

18 MR. BLOOMSTON: No objection.

19 MR. ESSIG: No objection.

20 MR. McKNIGHT: No objection.

21 THE COURT: Thanks, everyone. 92 is received and may  
22 be published.

23 (Government's Exhibit 92 was admitted into evidence.)

24 Q. (BY MS. MARK:) Okay, Mr. Glenn. Looking at  
25 Government's Exhibit 92, is this an email from you?



1 A. It is, yes, ma'am.

2 Q. All right. And what's the date?

3 A. It is June 4, 2015.

4 Q. All right. And can you tell us who did you send this  
5 email to?

6 A. I sent it to Joel Gilbert, Steve McKinney, David  
7 Roberson, Blake Andrews, Curt Jones, and Scott Phillips.

8 Q. And what's the subject?

9 A. "Senate Joint Resolution."

10 Q. And is there an attachment to this document that is a  
11 copy of the Senate Joint Resolution?

12 A. There is.

13 Q. And is that SJR 97?

14 A. That is correct.

15 Q. And your email there says "SJR 97 was passed by the  
16 second House today"?

17 A. Correct.

18 Q. Why did you send a copy of the joint resolution when it  
19 passed to those individuals?

20 A. For situational awareness.

21 Q. What does that mean?

22 A. Just so they would be aware that joint resolution  
23 passed.

24 Q. Was it important to Balch and Drummond to have the state  
25 legislature as a unified body take a position opposing EPA?

1 A. I'm not sure if I can speak for how important it was to  
2 them. I know they understood and supported this effort.

3 Q. Okay. Was part of their strategy to tell people that  
4 the Alabama legislature was opposing EPA?

5 A. Yes. I mean specifically to talk about this resolution  
6 and make sure that they discussed openly -- we all  
7 discussed openly what people's position was on it.

8 Q. Okay. And was the resolution used in their efforts to  
9 oppose EPA?

10 A. I can't specifically recall how this was used. I think,  
11 again, it's outside of a conversation with Lance about it.

12 Q. You referenced it to the director?

13 A. I did.

14 Q. In the conversation that we looked at earlier?

15 A. Yes, ma'am.

16 MS. MARK: Your Honor, may I have just one moment?

17 THE COURT: You may.

18 MS. MARK: I believe that's all the questions I have at  
19 this time for Mr. Glenn.

20 THE COURT: Okay. Who is up first on cross-exam?

21 MR. ESSIG: I am, Your Honor.

22 THE COURT: You may begin, Mr. Essig.

23 MR. ESSIG: Thank you. It's going to take me a moment,  
24 Your Honor.

25 THE COURT: All right. Just a reminder, I will cut you

1 off at 6:00. But please start. Thank you.

2 MR. ESSIG: Yes, sir.

3 CROSS-EXAMINATION BY MR. ESSIG:

4 Q. Good afternoon, Mr. Glenn. My name is Brandon Essig,  
5 and I'm one of the attorneys that represents Joel Gilbert  
6 in this case.

7 A. Good afternoon.

8 Q. And you know Mr. Gilbert fairly well; is that accurate,  
9 Mr. Glenn?

10 A. Yes, sir, that's accurate.

11 Q. You've known him for a number of years?

12 A. Correct.

13 Q. And if you would, just take a moment and explain to the  
14 jury how you came to know Joel Gilbert. How did you first  
15 meet him?

16 A. We first met in a professional setting through our  
17 interactions at my previous jobs and then became working  
18 together on this case and ultimately became more personal  
19 friends as well during this time.

20 Q. And I would imagine it's probably true, Mr. Glenn, you  
21 probably have a lot of personal friends that develop out of  
22 your work and your career and what you've done?

23 A. Oh, absolutely. Absolutely, yes, sir.

24 Q. In the past jobs that you've had, obviously you knew  
25 them through your work with SEC and Strada?

1 A. Correct.

2 Q. You knew that, right?

3 A. Yes.

4 Q. Then before that, you were the director of ADEM; is that  
5 right?

6 A. Correct. Yes, sir.

7 Q. And you've talked a lot about what your role was at  
8 ADEM. And I think you described to the jury that it's very  
9 similar to what you do now at EPA; is that right?

10 A. Yes, sir, it is comparable, yes, sir.

11 Q. It would be fair to say, I mean, you spent a lot of time  
12 and have a lot of experience actually serving in the role  
13 of an environmental regulator; is that right?

14 A. Yes, sir.

15 Q. Okay. And at ADEM, I think, as I understood the way you  
16 described, essentially ADEM's job is to implement the  
17 things that EPA tells ADEM to do; is that right?

18 A. That's correct.

19 Q. And when you worked at ADEM, and it sounds like it's  
20 consistent with your interactions with Mr. LeFleur, a big  
21 part of the job is interacting with either individuals or  
22 groups whose regulations ADEM and EPA affect; would that be  
23 fair to say?

24 A. Yes, sir.

25 Q. And that affects a lot of people and a lot of different

1 types of groups; would that be fair to say?

2 A. Yes, sir.

3 Q. And I think it would be fair to say, and you would  
4 agree, that the environment and environmental regulations  
5 or the lack of environmental regulations is a political hot  
6 potato. That's true, isn't it?

7 A. Yes, sir. It's discussed a lot in politics.

8 Q. In your time working at ADEM, you came to deal with a  
9 lot of people like Joel Gilbert; is that right?

10 A. Yes, sir.

11 Q. And what I mean by that is a lot of lawyers that  
12 represent large industrial clients; is that correct?

13 A. Yes, sir.

14 Q. As a matter of fact, is that how you first got to know  
15 Mr. Gilbert? Was it in your time as the director of ADEM?

16 A. I can't recall if it was then or if it was prior to my  
17 time at ADEM.

18 Q. But certainly you would have interacted with Mr. Gilbert  
19 at Balch & Bingham during your time at ADEM?

20 A. I recall doing that, yes, sir.

21 Q. You would have had a lot of interaction with the law  
22 firm of Balch & Bingham and various lawyers at Balch &  
23 Bingham in your time at ADEM; is that right?

24 A. Yes, sir.

25 Q. And it would be fair to say the reason for that is the

1 truth is Balch & Bingham is probably the best environmental  
2 law firm in the State of Alabama; is that right?

3 A. I'm not sure I can answer that, sir.

4 Q. Okay. Probably didn't want to exclude any other law  
5 firms. And that's probably important because, in your  
6 capacity at EPA, you continue to deal with lawyers and law  
7 firms that represent large industrial clients?

8 A. I do, yes, sir.

9 Q. As a matter of fact, EPA has to do that every single  
10 day; would that be fair to say?

11 A. I would assume somewhere in the organization they are  
12 every day, yes.

13 Q. And when you're dealing with lawyers and law firms that  
14 represent large industrial companies, they represent  
15 companies that employ thousands, hundreds, sometimes tens  
16 of thousands of people; is that right?

17 A. Yes, sir, that's correct.

18 Q. And they're job creators; would that be fair to say?

19 A. Yes, sir.

20 Q. And as a result of being job creators, they are the type  
21 of people that have a decent amount of political power;  
22 would that be fair to say?

23 A. I don't know if I can answer that one, but they are  
24 certainly engaged in issues.

25 Q. Right. They're engaged in a lot of political advocacy?

1     A.   Yes, sir.

2     Q.   They engage with people like the EPA administrator such  
3     as yourself?

4     A.   Yes, sir.

5     Q.   And they engage with people like the ADEM director; is  
6     that right?

7     A.   Yes, sir, yes, sir.

8     Q.   And it would probably be fair to say that EPA gets a lot  
9     of criticisms for the regulations they implement; would  
10    that be accurate?

11    A.   Yes, sir, we get a lot of criticism.

12    Q.   Same for ADEM. They got a lot of criticism for the  
13    regulations they implement; is that right?

14    A.   My experience is they did, yes, sir.

15    Q.   On the other side of that coin, it also would be fair to  
16    say that EPA and ADEM get a lot of criticism for the  
17    regulations they don't implement; is that correct?

18    A.   I think that's a correct statement, yes.

19    Q.   On the one hand, when they implement regulations, a lot  
20    of times that criticism comes from industry and their  
21    lawyers; is that fair to say?

22    A.   Yes, sir. A lot of discussion about our regulations.

23    Q.   And it can come from politicians who are sympathetic to  
24    the interests of businesses and their lawyers; is that  
25    right?

1 A. Yes, sir, in my experience, it can.

2 Q. And oftentimes when EPA or ADEM doesn't implement a  
3 particular regulation, there's a lot of criticism that  
4 comes from environmental groups. Would that be fair to  
5 say?

6 A. Yes, sir. I'm not aware of many regulations that exist  
7 that we don't implement, so there's a lot of criticism  
8 about items that are not law or regulations.

9 Q. That's probably fair to say. I probably asked that  
10 question in a poor way.

11 Regulations they would like maybe to see that don't  
12 happen?

13 A. Correct, yes, sir.

14 Q. They come to you or they came to you when you were the  
15 director of ADEM to try to persuade you, "Hey, we'd like a  
16 particular regulation implemented" or "We'd like this  
17 loophole fixed," those kind of things, right?

18 A. Yes, sir, people talked about regulations a lot.

19 Q. Right. And a lot of these environmental groups, they  
20 employ lobbyists as well, don't they?

21 A. Yes, sir, I'm not sure --

22 Q. And they have attorneys that represent them as well,  
23 don't they?

24 A. Yes, sir.

25 Q. And some of the ones you would have dealt with when you



1 worked at ADEM would have been Riverkeepers Alliance; is  
2 that correct?

3 A. Yes, sir. That's correct.

4 Q. Black Warrior Riverkeepers?

5 A. I would have, yes, sir.

6 Q. There's a -- I think there's a Cahaba something similar,  
7 I don't know the exact name of it but there's a Cahaba  
8 River sort of group that tries to protect the Cahaba, keep  
9 it clean, that sort of thing?

10 A. Yes, sir, I would have interacted with them.

11 Q. And GASP, you're familiar with GASP through your work in  
12 this case; is that right?

13 A. That is correct.

14 Q. And GASP is a similar entity, but GASP issues, their  
15 issue is really more directed specifically at clean air; is  
16 that right?

17 A. That's my understanding of GASP, yes, sir.

18 Q. And that's part of the job when you're the director of  
19 ADEM or you're in the position you're in now is you have to  
20 listen to all parties that might be interested in a  
21 particular environmental issue; is that correct?

22 A. Yes, sir. We do try to listen to all sides, yes.

23 Q. And you come in contact with politicians, whether they  
24 be Democrat or Republican, that support both sides of any  
25 regulation or nonregulation; would that be fair to say?

1 A. Yes, sir, I do come into contact with them.

2 Q. The fire comes from both sides. Would that be fair to  
3 say?

4 A. I think put that way, that would be fair to say, yes,  
5 sir.

6 Q. Now, going back to the issue of community engagement,  
7 okay. And as I understood the way you answered Ms. Mark's  
8 questions is that community engagement was a service that  
9 Strada, SEC -- and I apologize, I get confused on which one  
10 is operating at which point in time, so let me know if I  
11 get that wrong if it's important. But that is a service  
12 that Strada and SE+C offer?

13 A. That's correct.

14 Q. That's right?

15 A. Yes.

16 Q. As a matter of fact, when you heard about the 35th  
17 Avenue Superfund Site and its implications against Drummond  
18 and ABC Coke, you came to them and you gave them a proposal  
19 and said "Hey, we can do community engagement"?

20 A. Yes, sir.

21 Q. But the existing resources that you had at the company  
22 in terms of the people that are sort of the employees or  
23 consultants or however that arrangement worked, I mean you  
24 only had like four people, right, that are there full-time?  
25 Would that be fair to say?

1 A. Correct, four or five probably at that time.

2 Q. You didn't have a person that's sort of dedicated to  
3 community engagement?

4 A. No, sir.

5 Q. And you've all got some experience with it, some  
6 expertise in that area; would that be fair to say?

7 A. Yes, sir, it's fair.

8 Q. But when Strada and SE+C gets into a matter, when they  
9 get hired by somebody like Drummond or Balch and they need  
10 to go out and they need to do community engagement, they  
11 have to hire somebody to do community engagement. Would  
12 that be fair to say?

13 A. We did, yes, sir, because the workload is more than our  
14 current people could have covered.

15 Q. Sure. Right. Right. And I think you've told us, and I  
16 think we talked about, and the jury has certainly heard in  
17 this case, that community engagement runs the gamut of  
18 different things that people can do. Would that be fair to  
19 say?

20 A. Yes, sir, a broad spectrum.

21 Q. Sure. And as an example, the things that Ms. Carter was  
22 doing, right? That's one type of community engagement.  
23 And as I understand what Ms. Carter did is her job was  
24 pretty simple. Go to meetings in North Birmingham, listen  
25 to what they're saying, and then report back to us what

1 they're saying?

2 A. Yes, sir. You summarized it well.

3 Q. It was that simple. That's all it was; is that right?

4 A. Yes, sir.

5 Q. And in the course of doing that, she was paid -- her  
6 contract with you guys was a flat \$2500 a month; is that  
7 right?

8 A. That's correct.

9 Q. I think at some point in time it became hourly work, but  
10 it began as a flat rate?

11 A. Yes, sir.

12 Q. And one of the reasons you do a flat rate for something  
13 like community engagement is that some months there might  
14 be a lot of work to do, and some months there might not be  
15 much work to do; would that be fair to say?

16 A. Could be, yes.

17 Q. But the two parties, the consultant and the company, in  
18 your case, might come to an agreement, "Well, look, since  
19 your work is going to vary, let's just agree on a flat rate  
20 that makes sense to everybody"; is that right?

21 A. Yes, sir.

22 Q. And that's not uncommon at all?

23 A. No, sir.

24 Q. As a matter of fact, I think, I don't know if you said  
25 this on direct examination, as I understand, you actually

1 had a consulting contract with the Business Council of  
2 Alabama where they pay you -- or used to pay you, I  
3 apologize, \$4000 a month; is that right?

4 A. Yes, sir, that's correct.

5 Q. And in that particular case, that consultant contract  
6 made sense for sort of the same reasons?

7 A. Right.

8 Q. Work goes up and down. Some months more, some months  
9 less?

10 A. Yes, sir.

11 Q. And Ms. Carter's community engagement work that she did  
12 for you guys in North Birmingham, it never got beyond just  
13 the "go to meetings, listen, and report." It never got  
14 beyond that, did it?

15 A. Yeah, no, sir. We never had her do direct messaging, if  
16 you will. It was all gathering information and giving us  
17 feedback on what she was hearing in the community.

18 Q. And Ms. Carter, that was -- and part of that was driven  
19 by a decision of the client that gets to help decide who's  
20 going to do some of that community engagement; is that  
21 right?

22 A. Oh, absolutely, yes, sir.

23 Q. That is something that is absolutely within the client's  
24 discretion; is that correct?

25 A. Yes, sir. They're the boss.

1 Q. And in this case, your bosses, as you say, that's Balch  
2 and Drummond?

3 A. Correct.

4 Q. They get to decide who gets to do that work?

5 A. Yes, sir.

6 Q. In your experience, there are many reasons why a company  
7 might want to choose a particular group or a particular  
8 individual to do community engagement work?

9 A. Yes, sir. Choose whoever they want to.

10 Q. Sure. And there might be reasons for that. It might be  
11 that one person doing a certain type of community  
12 engagement, they're perfect for that. But it may be the  
13 client's belief that if it gets bigger and requires more  
14 resources, that perhaps that person can't perform that  
15 work?

16 A. Yeah, makes sense. I'm not sure exactly what --

17 Q. Sure, yes. You may not know exactly. But there are  
18 many reasons why a business might decide "I want to use one  
19 rather than the other"?

20 A. Absolutely.

21 Q. Just like some people like Ford, some people like Chevy;  
22 is that right?

23 A. That's fair to say, yes, sir.

24 Q. All right. And one of the reasons -- I mean you guys  
25 have been involved in Superfund-type issues and

1 environmental issues, sort of large scale, high-profile  
2 environmental issues. SE+C had been involved in those in  
3 several different places; is that accurate?

4 A. Yes, the principals. The people have, yes.

5 Q. Sure, whether it's the business or not. And I think all  
6 of you guys have had experience working over in Anniston  
7 and Calhoun County; is that right?

8 A. I didn't have specific experience providing services  
9 there, but the other partners did.

10 Q. Sure. And that was a big, large-scale, a huge  
11 environmental issue that went on for forever?

12 A. And it's still going on today, I believe, yes, sir.

13 Q. And also, y'all had had some involvement with an  
14 environmental issue that went on down in Florida; is that  
15 right? Or maybe you're still involved with that, at one  
16 point in time.

17 A. I'm not recalling specifically. I think I CV referenced  
18 some of the work Scott did in Mississippi.

19 Q. All right. And then you personally, who was your  
20 biggest client that you were working with when you were at  
21 SE+C or Strada?

22 A. Depended on the month and the activities we were working  
23 with, but certainly Balch and Drummond was a big client for  
24 us at that time. We also had other clients.

25 Q. They were a large significant client?

1 A. Yes, sir.

2 Q. And am I correct that you also worked for the Birmingham  
3 Jefferson County Transit Authority; is that right?

4 A. That is correct, yes, sir.

5 Q. And was that similar type of work that you were doing  
6 for Balch & Bingham?

7 A. There were some similarities. There wasn't the  
8 Superfund technical nature.

9 Q. Right.

10 A. But we were providing various tasks and services.

11 Q. Can you describe for us just a little bit what was  
12 involved in the scope of that work or what that work was  
13 about?

14 A. The work that I was more involved in was twofold. One  
15 was the federal government regulatory oversight. I think  
16 it was the FTA, whatever, the federal traffic and transit,  
17 was doing audits and looking at them, and the BJCTA was  
18 putting in place procedures and processes for governmental  
19 regulatory work.

20 The other is construction, owners' representation in  
21 the construction of an intermodal facility and providing  
22 both technical advice as well as messaging and interacting  
23 in meetings on behalf of them.

24 Q. And was there some community engagement effort that took  
25 place as part of that work?



1 A. We did.

2 Q. Okay.

3 A. I mean, I did. I was engaged in outreach conversations  
4 with external parties, if that's what you're asking, like  
5 City of Birmingham or others as part of that work.

6 Q. And were you aware that at some point Oliver Robinson  
7 became involved in some of the community engagement  
8 surrounding the Birmingham Airport's work?

9 A. The Birmingham airport, yes, sir.

10 Q. Yes.

11 A. Yes, sir.

12 Q. And that was something that you were aware of  
13 specifically that Oliver Robinson had been involved with  
14 that?

15 A. Oh, yes, sir.

16 Q. And was it your knowledge that Oliver Robinson's  
17 foundation had been involved in some of the that work?

18 A. I'm not -- I'm not aware of that. My recollection was  
19 it was Robinson & Robinson Communications --

20 Q. Okay.

21 A. -- provided services to a Strada/AECOM joint venture on  
22 an airport master planning project.

23 Q. Okay. One of Mr. Robinson's businesses; is that right?

24 A. Yes, sir. I'm not sure of all his businesses, but yes,  
25 sir.

1 MR. ESSIG: Your Honor, may I approach?

2 THE COURT: You may.

3 (Defendant's Exhibit 1161 was referenced.)

4 Q. (BY MR. ESSIG:) Showing the witness what has been  
5 marked as Defendant's Exhibit 1161. Mr. Glenn, do you  
6 recognize that document?

7 A. Yes, sir.

8 Q. And if you would, it is an email that is four pages. If  
9 you'll just flip to the very back page which, of course, is  
10 the beginning of the email.

11 A. Yes, sir.

12 Q. And so do you recognize -- sort of flip through that  
13 entire communication.

14 A. I do. Yes, sir. I recall this.

15 MR. ESSIG: Your Honor, at this time we move to admit  
16 Defendant's Exhibit 1161.

17 THE COURT: Any objections?

18 MS. MARK: No objection.

19 THE COURT: 1161 is received and may be published.

20 (Defendant's Exhibit 1161 was admitted into evidence.)

21 Q. (BY MR. ESSIG:) And Mr. Glenn, I think you talked  
22 about, on direct examination, that one of the lawyers that  
23 you worked with at Balch & Bingham, as a matter of fact,  
24 the first lawyer that you worked with at Balch & Bingham on  
25 this project was a lawyer named David Moore; is that right?

1 A. That's correct, yes, sir.

2 Q. And Mr. Moore was a partner at Balch in their Atlanta  
3 office; is that correct?

4 A. Yes, sir. I'm not sure if he was a partner, but I know  
5 he worked for Balch.

6 Q. Okay. If we could, we can flip through it again. And  
7 we've been through this exercise a few times. If you would  
8 go -- go to the very last page.

9 A. Yes, sir.

10 Q. And then correct me if I'm wrong, but that portion of  
11 the email, which would be the earliest email in the chain,  
12 am I right we've got to go to sort of the middle of page 2  
13 to figure out where that communication begins?

14 A. That is correct, yes, sir.

15 MR. ESSIG: Sam, if you'll just highlight that, please.

16 Q. Again, this is an email from you to Scott Phillips, and  
17 it looks like you copy --

18 A. Sent it to myself and Scott.

19 Q. Yeah, copy to a couple of different emails?

20 A. Uh-huh.

21 Q. If you will, flip to the next page. And if you will  
22 just describe for us -- the subject of the email is --  
23 that's 2014-01-08. I assume that's January 8, 2014?

24 A. Yes, sir.

25 Q. All right. And it says "SEC Action Items"?

1     **A.**   Correct.

2     **Q.**   So, if you would, just kind of explain for us, you don't  
3     have to read the email, but just kind of if you'll look  
4     through it and just kind of tell us what it is that this  
5     email is describing.

6     **A.**   My recollection of this is that it was a capturing of  
7     notes from a brainstorm conversation that was had.  I know  
8     Scott and I had a brainstorm.  I can't remember if David  
9     Moore was part of that or not, but...

10    **Q.**   All right.  And if you will go -- does this email talk  
11    about various aspects of the engagement and what it might  
12    be on behalf of Balch and Drummond on 35th Avenue?

13    **A.**   Yes, sir.

14    **Q.**   And does it include community outreach?

15    **A.**   It does.

16    **Q.**   And do you recall the acronym, or do you know what the  
17    acronym NBCC stands for?

18    **A.**   Yes, sir, I think I do.

19    **Q.**   And what is that?

20    **A.**   That's the North Birmingham Community something.

21    **Q.**   Coalition?  Does that sound right?

22    **A.**   It sounds right, but I don't know for sure.

23    **Q.**   Okay.

24    **A.**   Yes.  Representing North Birmingham neighborhood  
25    communities.

1 Q. Right. And that was an EPA-led effort in North  
2 Birmingham; is that right? Do you recall that?

3 A. I don't recall that. I'm not sure.

4 Q. Okay. You just know it was a community effort in North  
5 Birmingham?

6 A. Correct, yes, sir.

7 Q. And then if you'll go down just below that.

8 MR. ESSIG: Sam, if you'll highlight those three there  
9 at the bottom.

10 Q. And if you would, Mr. Glenn, just read those three  
11 bullet points to us, please.

12 A. Yes, sir. "Catrena, go to all the meetings, talk to  
13 everyone she can, try to be a part of the effort (maybe  
14 redevelopment angle), deliver NBCC message, find out what  
15 Alice Gordon is doing door-to-door."

16 Next bullet is "Edmund (maybe Oliver Robinson)  
17 grassroots outreach effort. This will likely come later.  
18 But since Alice Gordon is going door-to-door to hand out  
19 information, we could create our own info to go  
20 door-to-door with."

21 And third bullet "Judge Clemon, Edmund, and/or Joel  
22 deliver NBCC message."

23 Q. So it's true to say, Mr. Glenn -- and again, the date of  
24 this email is January of 2015; is that right?

25 A. January of 2014.

1 Q. I'm sorry. I apologize. January of 2014. Which this  
2 is pretty early in the engagement; is that right?

3 A. Oh, yes, sir.

4 Q. And so it would be fair to say that as early as  
5 January of 2014 that you are contemplating that Oliver  
6 Robinson may have some role in door-to-door community  
7 engagement to complement Ms. Carter and that you were  
8 providing that information to Balch & Bingham?

9 A. Yes, sir. I forget exactly how this was -- came about  
10 as far as who mentioned the note that we captured her on  
11 this brainstorm, but Oliver's name was definitely  
12 mentioned.

13 MR. ESSIG: Your Honor, this is a good stopping point.

14 THE COURT: Okay. Mr. Glenn, you obviously have to  
15 come back tomorrow. Please do not talk about your  
16 testimony with anyone.

17 Members of the jury, we're going to start at 9:00 a.m.,  
18 and just a reminder that tomorrow is a full Friday.  
19 Beginning next week is when I will give you Friday  
20 afternoons off beginning at 1:00 p.m. Please do not talk  
21 about this case with anyone, and also please do not expose  
22 yourselves to any of the media coverage about this case.

23 Have a good night, everyone. See you in the morning.  
24 (The following proceedings were had in open court  
25 outside of the presence and hearing of the jury.)

1 THE COURT: Mr. Glenn, you may step down, sir. Have a  
2 good night.

3 THE WITNESS: Thank you, sir.

4 THE COURT: Please give the jury two to three minutes  
5 and then you are free to go.

6 Thanks, everyone. Have a good night.

7 (The proceedings were continued to July 6, 2018.)

8 C E R T I F I C A T E

9 I, Sabrina Lewis, RDR, CRR, Official Court Reporter  
10 for the United States District Court for the Northern  
11 District of Alabama, appointed pursuant to the provisions  
12 of Title 28, United States Code, Section 753, do hereby  
13 certify that the foregoing is a correct transcript of the  
14 proceedings reported by me using the stenotype reporting  
15 method in conjunction with computer-aided transcription,  
16 and that same is a true and correct transcript to the best  
17 of my ability and understanding.

18 I further certify that the transcript fees and  
19 format comply with those prescribed by the Court and the  
20 Judicial Conference of the United States.

21 Dated: September 9, 2018

22 

24 SABRINA LEWIS, FEDERAL OFFICIAL COURT REPORTER  
25